



Town Hall: POB 970, 4117 Oak Ridge Road, Summerfield, NC 27358
ph: 336-643-8655 / fax: 336-643-8654 / www.summerfieldgov.com

Z O N I N G B O A R D A G E N D A

NOVEMBER 28, 2016, 7:00PM, SFD COMMUNITY CENTER

1. Call to order
2. Introductions
3. Consent agenda:
 - A. Meeting agenda
 - B. Adoption of 10/24/16 minutes
6. Discussion of Text Amendment case TA-2016-01 Planned Development article
8. Other business (as needed)
9. Adjourn

Council: Mayor Mark Brown, Mayor Pro-tem Dena Barnes, Mike Adams, Dianne Laughlin, John O'Day, Reece Walker Manager: Scott Whitaker

Staff: Jeff Goard (P&R Mgr.), Cheryl Gore (Mgr. Asst./Events Coord.), Dee Hall (Finance Ofc.), Valarie Halvorsen (Clerk), Carrie Spencer (Planning Dir.)



Z O N I N G B O A R D M I N U T E S

S P E C I A L C A L L M E E T I N G

November 15, 2016, 6:08pm, SFD Town Hal

Hess opened the meeting at 7:00pm. The following were present:

Planning and Zoning Board

Nancy Hess, Chair
 Richard (Dick) Feulner
 George (Jeff) Davis
 Kathy Rooney
 Trudy Whitacre
 Scott Henson
 Dwayne Crawford

Staff

Carrie Spencer, Planning Director
 Valarie Halvorsen, Town Clerk
 Scott Whitaker, Town Manager

PLANNED DEVELOPMENT ORDINANCE AMENDMENT: Spencer noted the purpose of the meeting was to continue the dialogue about all aspects of Planned Development, gave historical information about Summerfield including population and development growth, and discussed the importance of ordinance compatibility and consistency with the town's adopted long range plans.

Spencer summarized information given to the Board at their October meeting about a text amendment to the current Development Ordinance that would add a "Planned Development (PD)" zoning district. The district would afford more consistency between the Ordinance and adopted Comprehensive Plan and dictate appropriate standards and processes to ensure compatibility with the community's vision for growth.

Spencer reviewed the proposed process for approving a PD, noting it would be similar to the current zoning process with a public meeting, land use and intensity, and conditions as appropriate prior to the public hearings and stated administrative review following rezoning approval allows for negotiation and creativity in carrying out what was approved through the rezoning. Spencer further noted PD zoning does more to accomplish the goals and objectives of the Comprehensive Plan than any other change made to the Development Ordinance and allows for an additional choice for greenspace, water recharge, housing type, and mixed use development that is lacking in Summerfield.

Spencer introduced Andy Scott, colleague and former assistant City Manager for the City of Greensboro, who presented key information from the Comprehensive Plan Growth Factors Analysis

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that he had offered to update for her. He added that the City of Greensboro has always been interested in development in Northwest Guilford County as the area helps to make the whole region more attractive to economic development efforts for the city.

Several developers offered their perspectives, which were supportive of PD zoning.

The Board will review the details of the text amendment itself with the current edits before setting a date for a public hearing.

With no other business before the board, Feulner motioned to adjourn at 8:49pm, seconded by Davis, which carried unanimously.

Nancy Hess, Chair

Valarie Halvorsen, Town Clerk

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11/22/16 DPA



TO: Zoning Board
FROM: Planning Director
DATE: November 28, 2016
RE: Case TA-2016-01 -Planned Development article

A. Actions Requested by Zoning Board

Discuss draft ordinance, suggest revisions, and set a date for public hearing and recommendation to Town Council.

B. Background and Discussion

Staff has recommended a text amendment to the current Development Ordinance that would add a "Planned Development (PD)" zoning district based on the adopted Comprehensive Plan.

Per Article 3-12.4, Council approved a Resolution of Intent to amend the ordinance at their October 11, 2016 meeting.

Staff presented information and a draft text amendment to the Zoning Board at their October 24, 2016 meeting, and at a Special Call Meeting held November 15, 2016.

The attached revised draft addresses concerns that came out of those meetings and adds language to strengthen the legal sufficiency of the text amendment. This current revision includes the following changes from previous drafts:

- Add an amendment to the existing ordinance to add Planned Development as a zoning option.
- Replace Sections A- F with new sections A-C to eliminate redundancies and clarify the ordinance as a voluntary option to other zoning districts.
- Replace the terms "Master Development Plan" and "Terms and Conditions Document" with "Regulating Documents" for clarification, and consistency with the nature of the ordinance.
- Revise Section D to move public input to the zoning approval instead of development approval, add the ability to include conditions, and establish minimum submittal requirements for zoning approval.
- Add reference to an application form to establish submittal guidelines for the Planned Development after rezoning.
- Add guidelines for determining permitted uses.
- Change the "TECHNICAL REQUIREMENTS" section to "EXISTING DEVELOPMENT ORDINANCE SECTIONS THAT APPLY TO PD" and complete the section.

C. Compliance with Adopted Plans and Staff Recommendation

Staff believes this amendment to be consistent with the Town's adopted Comprehensive Plan and satisfies several of the Action Items recommended by the plan.

E. Attachments

1. Revised Draft Planned Development article
2. Draft Application for Planned Development

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F. Alternative Courses of Action (for public hearing upon completion of draft)

Motions for zoning amendments must include a decision to adopt or reject the proposal, and must adopt a 2-part Statement of Consistency that addresses Consistency with a Plan, and Public Interest:

Interest:

APPROVAL: I move that the request to add a Planned Development article to the Development Ordinance be approved (as drafted/with conditions) The request is **consistent with the town's adopted Comprehensive Plan** because: (List): _____; and this approval is **reasonable and in the public interest** because _____.

DENIAL: I move that the request to add a Planned Development article to the Development Ordinance be denied. The request is **not consistent with the town's adopted Comprehensive Plan** because: (List): _____; and **is/is not in the public interest** because _____.

Consistent with the towns adopted Comprehensive Plan: *(site specific policies within these Policy Areas):*

- Community Character Preservation
- Transportation Improvements
- Water Supply and Sewage Treatment Options
- Appropriate Housing and Residential Development
- Parks and Recreation Improvements
- Attractive Community Appearance
- Quality School Facilities
- Summerfield Road Focus Area
- Historic Preservation
- Summerfield as a Limited Services Local Government

Reasonable and in the public interest: *(explain why, using one or more of the following reasons)*

- Maintains or promotes the **public health, safety, and general welfare** *(reasons related to location, design, function and operation);*
- Complies with all **regulations and standards** of this ordinance and other applicable regulations;
- Does not **substantially hurt adjoining or abutting property value** *(reasons related to location, design, function and operation),* and is a public necessity;
- Will be **in harmony with the area** in which it is to be located and **with the general plans for the land use and development of the Town of Summerfield and its environs**
-

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ARTICLE IV

ZONING

4-1 DISTRICTS ESTABLISHED

In order to achieve the purposes of this Ordinance as set forth, all property within the jurisdiction of Town of Summerfield is divided into districts with the designations and purposes listed in Section 4-2 (District Descriptions) or districts with the regulations governing Planned Development as set forth by Article 10 (Planned Development Ordinance).

DRAFT

The whole of Article X is added and approved by Town Council _____.

**ARTICLE X
PLANNED DEVELOPMENT ORDINANCE**

A. ESTABLISHMENT OF PLANNED DEVELOPMENT DISTRICT AND RELATION TO OTHER ZONING DISTRICTS

B. PURPOSE AND INTENT

C. DISTRICT DESCRIPTION

D. DEFINITIONS

E. PROCEDURES

- 1. Two-Stage Approval Process**
- 2. Initiation and Filing of Application**
- 3. Procedures for Zoning Approval**
- 4. Procedures for Planned Development Approval**
- 5. Phasing Allowed**
- 6. Amendments**
- 7. Vested Rights**

F. PERMITTED USES

G. DEVELOPMENT STANDARDS

APPENDIX 1 : TOWN OF SUMMERFIELD COMPREHENSIVE PLAN COMMON OBJECTIVES AND POLICIES

APPENDIX 2: TOWN OF SUMMERFIELD DEVELOPMENT ORDINANCES THAT APPLY TO PLANNED DEVELOPMENT

The whole of Article X is added and approved by Town Council _____.

ARTICLE X
PLANNED DEVELOPMENT ORDINANCE

A. ESTABLISHMENT OF PLANNED DEVELOPMENT DISTRICT AND RELATION TO OTHER ZONING DISTRICTS

A Planned Development (PD) district is hereby added to the Development Ordinance as a voluntary zoning district option in addition to the districts listed in Section 4-2 (District Descriptions).

Land within a Planned Development zoning district that falls within one or more Overlay Zoning areas, as listed in Section 4-2.3 and 4-2.11 of the Development Ordinance shall be subject to those regulations in addition to the regulations governing development in the PD district. If the standards governing a PD district expressly conflict with those governing an overlay zoning area, the standards imposing greater restrictions, burdens, or more stringent controls shall control.

B. PURPOSE and INTENT

The Planned Development District (PD) is intended to encourage innovative land planning and site design concepts that support a high quality of development in support of the stated policies of the Town of Summerfield Comprehensive Plan. Planned Development allows more flexible standards and procedures more conducive to creating mixed-use, pedestrian-oriented, and otherwise higher quality development than could be achieved through general use zoning district regulations.

Elements of PD that distinguish it from other zoning districts include:

1. Reducing or diminishing inflexibility of uniform design sometimes resulting from strict application of zoning and development standards which are designed primarily for individual large-lots and large lot subdivisions;
2. Allowing greater freedom in identifying and preserving resources and assets to the property;
3. Allowing greater freedom in providing a well-integrated blending of compatible uses in the same development;
4. Providing for efficient use of land resulting in more integrated networks of utilities and Complete Streets thereby lowering development and housing costs;
5. Promoting quality design and environmentally sensitive development that respects surrounding established land use character and respects and takes advantage of a site's natural and man-made features, such as trees, streams, hillsides, floodplains, farmland, and historic features and settlement patterns.

C. DISTRICT DESCRIPTION

A Planned Development (PD) is established by amendment of the Official Zoning Map to rezone land to a PD zoning district classification that is governed by a Sketch Plan, a Resource Map, and Regulating Documents. The Planned Development (PD) District accommodates developments that can integrate residential and non-residential uses while preserving resources that are assets to the property in relation to the Comprehensive Plan. The district permits public and private open space, recreational, agricultural, residential and non-residential uses that are part of a unified design. The district encourages compact, integrated development that provides a variety of residential density and housing types, with specified services convenient to nearby residences. Land use, density, dimensional requirements and other standards are subject to the Regulating Documents of the PD and shall be determined by the quality of the proposed PD design and the resources of the site established as assets relative to the Comprehensive Plan. The minimum gross land area for a Planned Development shall be 40 Acres.

The whole of Article X is added and approved by Town Council _____.

D. DEFINITIONS

Certain terms are hereby defined for Planned Developments:

PLANNED DEVELOPMENT (PD)

A type of building development and regulatory process, planned and developed under unified control, with a designed mix of land uses and criteria driven regulation.

REGULATING DOCUMENTS

Regulating Documents are maps and standards that precisely describe and regulate development for land that is zoned as Planned Development in order to ensure compliance with the Comprehensive Plan. Regulating Documents include a Regulating Plan and standards and parameters for the public and private realm.

REGULATING PLAN

A map of a proposed Planned Development with details necessary to approve a Planned Development at the administrative level.

RESOURCE MAP

A map of the existing assets of a property proposed for Planned Development depicting elements that are determined by the Comprehensive Plan to be assets to the property and to the town; necessary to approve a Planned Development as a zoning district.

SKETCH PLAN

A rough sketch map (also known as "Bubble Plan") of a proposed Planned Development showing the general configuration of principal elements of the proposal necessary to approve a Planned Development as a zoning district.

E. PROCEDURES

- 1. Two-Stage Approval Process:** Approval of any Planned Development requires a two-stage process: Zoning approval and Planned Development approval. The first stage is approval by the Town Council of a PD district submitted as part of a rezoning process with a Sketch Plan and Resource Map. The second stage is approval of Regulating Documents by the Planning Director and appropriate technical agencies. The Regulating Documents are binding on the land as an amendment to the official Zoning Map. Subsequent development within the PD district occurs through the administrative review procedures set forth in Appendix 2, as appropriate to ensure compliance with the Regulating Documents of the PD and other applicable regulations.
- 2. Initiation and Filing of Application:** To ensure unified control, an application for a Planned Development zoning classification may be initiated only by the owner(s) of all the property to be included in the proposed Planned Development district. No application for rezoning to the same PD Regulating Documents shall be filed within a one (1) year period from the date of final action on the previous rezoning request (other than a withdrawal, subject to the provisions of Section 3-12.2(F) Application Withdrawal, prior to the public hearing) on a given parcel of land or portion thereof unless the Zoning Board determines that evidence submitted to them merits consideration for a public hearing at their next meeting.

3. Procedures for Zoning Approval

a) Zoning Applications for PD shall include a Sketch Plan, Resource Map, and any other illustrations that help clarify the concept of the project including illustrative master plans, renderings, and other visualizing tools requested at the discretion of the Planning Director.

b) Specific steps to be completed for zoning approval include:

- Pre-Application Conference with Town Planning Staff
- Submittal of complete application for rezoning to include Sketch Plan and Resource Map
- Public Workshop with area residents and property owners
- Staff Review and Report on the complete application
- Public Hearing, Review, and Recommendation by Zoning Board
- Public Hearing, Review, and Decision by Town Council

(1) Pre-Application Conference on Site Preferred: For applications involving planned developments, a pre-application conference shall include a meeting with the Town Staff, preferably on-site, to discuss a Sketch Plan of the proposed development and to identify the Resources that should be depicted by the Resource Map prior to filing for rezoning. The intent of the pre-application conference is to familiarize the Town Staff with the property's special features, and to provide an informal opportunity for Staff to offer guidance to the applicant regarding the tentative location of property assets as identified in the Comprehensive Plan, potential building sites, street networks, and other development factors.

(2) Zoning Application may include conditions: Reclassification of land to the Planned Development zoning district allows a landowner to propose, and the Town Council to consider, conditions or restrictions on the range of allowable uses, development intensities, and development standards.

(3) Zoning Application to Include Sketch Plan: Zoning approval of a Planned Development Zoning District requires a Sketch Plan that depicts the general configuration and relationship of the principal elements of the proposed development. The Sketch Plan demonstrates the relationship of the principal elements of a development to each other and to the surrounding area and includes streets, areas proposed for development, and any other information required by the Planning Director to provide sufficient information to determine the appropriateness of the proposed development pattern to the area. At a minimum, the Sketch Plan shall indicate general land use and intensity for each area proposed for development and any associated conditions. Additional documentation such as may be requested at the Planning Director's discretion

(4) Zoning applications for Planned Development shall also include a Resource Map that depicts environmental, cultural, historical, and other resources that represent assets to the property as identified by the Comprehensive Plan. Examples of resources include environmentally sensitive areas, viewsheds, historic features, pastures and farm buildings, woodlands, and other natural and man-made land features. These examples are meant to be illustrative in nature and do not represent a list of assets that apply the same to every property.

- (5) To ensure unified control, the application shall also include a copy of the deed to all land that is part of the proposed PD zoning district classification.
- (6) Public Workshop Required: Before zoning approval, a public workshop shall be held to provide an opportunity for public input to the zoning proposal.

Additionally:

- (a) An announcement of the workshop shall be mailed to the owners as shown on the county tax listing of all parcels of land within 0.25 miles of any portion of the parcel(s) requested for rezoning at least 7 days and no more than 12 days prior to the workshop;
 - (b) The workshop shall require, at the very least, the presence of the property owner or his/her representative, including but not limited to the designer or developer or engineer and a member of the Town of Summerfield planning staff;
 - (c) The property owner or his/her representative shall bring a Sketch Plan and Resource Map to discuss with the public and be prepared to answer questions and accept input.
 - (d) Information presented by any party at the workshop is intended to be used as constructive input and may be considered for integration into the maps and zoning conditions at the time of final approval of the zoning request.
- (7) Review and Recommendation by Planning Director: The Planning Director shall review the application, relevant support material, and any comments from the public and other staff and review agencies, and prepare a written staff report. The staff report shall state whether the application complies with all appropriate standards of this Ordinance and other adopted plans of the Town. The staff report may identify ways in which areas of noncompliance might be eliminated and adverse effects of the development proposal might be mitigated and/or positive attributes enhanced. The staff report shall be transmitted to the applicant and made available to the review and decision making bodies and to the public a reasonable period of time not to be less than 4 business days before the first scheduled review body meeting or public hearing on the application.
 - (8) Review and Recommendation by Zoning Board
 - (a) Following staff review, the Zoning Board shall conduct a public meeting to review the application in accordance with Appendix 2 of this ordinance.
 - (b) The Zoning Board shall consider the application, consistency with the Comprehensive Plan, relevant support materials, the staff report, and any comments given by the public. The Zoning Board, by a majority vote of a quorum present, shall adopt a written recommendation for Approval of the application subject to the PD Sketch Plan and Resource Map with or without conditions related to the PD Sketch Plan, Resource Map and stated policies and general intent of the Comprehensive Plan; or Denial of the application.
 - (c) In making its recommendation, the Zoning Board shall adopt a written Statement of Consistency and Reasonableness according to the requirements of NCGS 160A-383 (Purposes in View).
 - (9) Public Hearing, Review, and Decision by Town Council
 - (a) Following the Zoning Board's recommendation, the Town Council shall conduct a standard public hearing on the application in accordance with Appendix 2. After close of the hearing,

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the Town Council shall consider the application, consistency with the Comprehensive Plan, relevant support materials, the staff report, the Zoning Board recommendation and any comments given by the public. The Town Council, by a majority vote of a quorum present shall take action to Approve the application subject to the PD Sketch Plan and Resource Map with or without conditions related to the PD Sketch Plan, Resource Map and stated policies and general intent of the Comprehensive Plan; or Deny the application.

- (b) Regardless of its decision on the proposed amendment, the Town Council will render a decision based upon a Statement of Consistency and Reasonableness according to the requirements of NCGS 160-383 (Purposes in View).

4. Procedures for Planned Development Approval

- a) Applications for Planned Development shall include Regulating Documents. Regulating Documents include a Regulating Plan, and standards for the public and private realm defining development form and parameters, providing for environmental mitigation, and outlining how community facilities will be provided to serve the planned development. Regulating Documents demonstrate the compliance of the development with the Comprehensive Plan. Guidelines for the Regulating Plan and Standards are described in a Planned Development application form to be provided by the Planning Director.
- b) Specific steps to be completed for Planned Development approval include:
- Submittal of complete application for Planned Development approval including Regulating Documents
 - Staff and Technical Review and approval
- c) Review and Approval by the Planning Director and technical agencies
- (1) The Planning Director shall seek technical input from agencies that regulate applicable functional elements of the Planned Development to include water and wastewater treatment, storm water control, transportation, building rules, emergency response, and watershed protection.
 - (2) Upon initial review, the Planning Director shall respond to the applicant within a reasonable timeframe with staff and technical input comments. The applicant shall incorporate comments into a revised Regulating Documents, with the Planning Director reserving the right to require subsequent resubmissions if staff and technical input comments are not sufficiently addressed.
 - (3) The Planning Director shall review the Regulating Documents to consider consistency with the Comprehensive Plan, relevant support materials and technical review comments, and make a decision based on compliance with this ordinance. The Planning Director shall approve the application, conditionally approve the application, or deny the application with stated reasons for denial. The Planning Director, at their discretion and with a statement describing the decision, may send the Regulating Documents to the Zoning Board for review and recommendation.
- d) Effect of Approval: Lands rezoned to a PD zoning district shall be subject to the approved Regulating Documents which shall be recorded with the Register of Deeds. The Regulating Documents are binding on the land as an amendment to the Official Zoning Map. The applicant may apply for and obtain subsequent development permits and approvals necessary to implement the Planned Development in accordance with relevant procedures and standards listed in Appendix 2. Any permits or approvals shall comply with the Regulating Documents.

The whole of Article X is added and approved by Town Council _____.

- e) Owners Association Documents Required: After approval of a Planned Development Regulating Documents, no final plat shall be approved until Owner's Associations documents prepared in accordance with Appendix 2 are recorded with the Register of Deeds.

5. Phasing Allowed: Development may occur in phases provided that the following requirements are met:

- a) All phases shall be shown with precise boundaries on the Regulating Plan and shall be numbered in the expected order of development;
- b) All application information required for the project as a whole shall be given for each phase shown on the plan;
- c) The phasing shall be consistent with the Regulating Documents for the entire development.
- d) If an approved Planned Development includes phasing provisions, then:
 - (1) No final plat for a phase of development shall be approved unless relevant development approved as part of the Regulating Documents included in previous phases are substantially complete; and
 - (2) No final plat for a phase of a Planned Development shall be approved if there is any uncorrected violation of the Regulating Documents, a Preliminary Plat, a Final Plat, or this Ordinance in any previous phase.

6. Amendments:

- a) If an applicant believes it is necessary to alter the concept or intent of the Regulating Documents, these documents shall be amended, extended, or modified only in accordance with the procedures and standards for their original approval.
- b) Minor Deviations: Minor Deviations may be approved by the Planning Director. Minor deviations are modifications to an approved Planned Development that, in the opinion of the Planning Director, do not constitute an alteration to the concept or intent of the approved Sketch Map, Resource Map, or Regulating Documents and can be considered as a minor deviation in accordance with the following:
 - (1) Subsequent plans and permits for development within an approved Planned Development may include minor deviations from the PD Regulating Documents, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the Planned Development zoning classification process or development approval process, or any other change that has no material effect on the character of the approved Planned Development or any of its approved terms or conditions. The following are examples of minor deviations:
 - (a) Floor plan revisions internal to the structure(s);
 - (b) Minor shifts in building size or location; and
 - (c) Facility design modifications for amenities and the like.

- (2) Changes that materially affect the basic concept of the PD Regulating Plan or basic parameters set by the PD Regulating Documents are not considered minor deviations, and shall only be changed as amendments to the appropriate PD Regulating Documents.

7. Vested Rights: A vested right shall be deemed established in accordance with § 160A-385.1 upon approval of the Regulating Documents.

F. PERMITTED USES

In order to encourage innovative land planning and site design concepts that support a high quality of development in support of the goals of the Town of Summerfield Comprehensive Plan, all uses shall be determined and permitted by the compatibility of such uses with each other and with surrounding land uses and shall conform to policies established in the Town of Summerfield Comprehensive Plan. General Types and general location of permitted uses within a PD zoning district shall be identified during the zoning process and set forth on the Sketch Plan. All specific permitted uses within a PD zoning district shall be identified and set forth with the approval of the Regulating Documents. In resolving questions of permitted uses and definitions, the Planning Director shall consider the classification of the use by The North American Industry Classification System (NAICS), and all relevant characteristics of the use including but not limited to the following:

1. The volume and type of sales, retail, wholesale, etc.;
2. The size and type of items sold and nature of inventory on the premises;
3. Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution;
4. Any dangerous, hazardous, toxic, or explosive materials used in the processing;
5. The nature of storage and outdoor display of merchandise, whether enclosed, open, inside or outside the principal building; predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders);
6. The type, size, and nature of buildings and structures;
7. The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;
8. Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site;
9. Trip purposes and whether trip purposes can be shared by other use types on the site;
10. Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity;
11. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes; and
12. Any special public utility requirements for serving the proposed use type, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities.

G. DEVELOPMENT STANDARDS

In order to encourage innovative land planning and site design concepts that support a high quality of development in support of the goals of the Town of Summerfield Comprehensive Plan, all development standards shall be determined and permitted by the compatibility of such standards with each other and with surrounding land uses and shall conform to policies established in the Town of Summerfield Comprehensive Plan. Development standards will be permitted according to the Regulating Documents approved according to the requirements of this ordinance. Examples of development standards that differ from other zoning district ordinances include lot density, dimensional requirements for residential, non-residential, and accessory

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

development, access, street design, signage, parking, landscaping, resource identification, and sidewalk and trail networks. Land use density and intensity permitted in a PD zoning designation shall be determined by the quality of the proposed PD design and the resources of the site established as assets relative to the stated policies listed and the general intent of the Comprehensive Plan. All development standards that apply to a PD zoning district shall be identified and set forth during the PD Document approval process.

Street Standards shall conform to guidelines included in the most current publication of NCDOT's Complete Streets Guidelines.

DRAFT

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PLANNED DEVELOPMENT APPENDIX 1:

TOWN OF SUMMERFIELD COMPREHENSIVE PLAN COMMON OBJECTIVES AND POLICIES

The 12 Common Objectives of the Comprehensive Plan represent the common themes derived from public input in the creation of the plan. These objectives describe a desirable condition for the Town and form the foundation for Policies and Actions that support them.

The following Policies are the regulating criteria that govern the approval of a Planned Development:

Common Objective 1: Appropriate, Limited Commercial Development

The Town of Summerfield shall prefer commercial development that reflects the feel, ambience, and charm of a small rural community. Commercial developments should be located, designed, and scaled to complement rather than detract from residential development forms, and enhance existing commercial areas.

Policy 1.1: New and redeveloped commercial properties shall avoid monolithic or standardized FRANCHISE-STYLE ARCHITECTURE, especially such that the building itself becomes a recognizable sign. Building architecture should employ brick, stone, wood, or like and similar building materials consistent with the detailing of Summerfield's early commercial properties, as exemplified by the Town Hall or the Brittain House.

Policy 1.2: OUTSIDE LIGHTING AND SIGNAGE shall be understated and attractive. Commercial SIGNAGE should be effective in creating an awareness of area businesses, not because of its height and size, but rather due to its appealing, uncluttered design.

Policy 1.3: Groups of commercial uses should be located in VILLAGE-LIKE CLUSTERS set back from major roads.

Policy 1.4: For new commercial developments, a continuous BUFFER OF TREES should be retained or planted along main roadways.

Policy 1.5: Commercial buildings and parking areas should be situated AMONG TREES and well-placed landscape plantings. Landscaped areas shall also be provided where necessary to BUFFER ADJOINING RESIDENTIAL PROPERTIES from commercial activity, and to help absorb stormwater runoff.

Policy 1.6: Commercial site plans should consider SHARED DRIVEWAYS, and plan for existing and future CONNECTIONS BETWEEN THE PARKING LOTS of adjoining businesses, so as minimize unnecessary and sometimes dangerous turning movements on to and off of area roadways.

Policy 1.7: To minimize automobile dependency and to enhance opportunities for social interaction, APPROPRIATELY DESIGNED AND SCALED SMALL BUSINESSES may be located within convenient walking or biking distances of residential areas, particularly when planned as part of a newly developed neighborhood or mixed use development.

Policy 1.8: NEIGHBORHOOD-SERVING SMALL BUSINESSES may also be considered for locations near (and for the convenience of) pre-existing residential areas, provided that careful attention is given to compatible design, type of business, adequate buffering, and other neighborhood protective factors. The general consensus of nearby residents, as evidenced at a properly held public hearing by Town government, would also need to be apparent.

Policy 1.9: LARGER-SCALED COMMERCIAL DEVELOPMENTS shall be directed to suitable locations away from residential areas, thereby protecting and enhancing property values.

Common Objective 2: Sidewalk, Bikeway and Trail System

The Town of Summerfield shall strive to become a walkable and bikeable community. Working in cooperation with private sector interests, the Town shall pursue a high level of connectivity between neighborhoods and other destinations in town such as schools, parks, and shopping. A well-integrated network of streets, sidewalks, bikeways, hiking trails, and horseback riding trails will provide for a multitude of driving, walking, and bicycling alternatives.

Policy 2.1: SIDEWALKS, BIKEWAYS, and TRAILS should be provided on a priority basis to connect residential areas to non-residential destinations, such as schools, parks, libraries, shopping centers or similar facilities.

Policy 2.2: The use of (1) NATURAL GREENWAY CORRIDORS such as streams and floodplains, and (2) MAN-MADE GREENWAY CORRIDORS such as utility and transportation rights-of-way and easements, should be secured as the backbone of the Town's off-road trail system.

Policy 2.3: PEDESTRIAN AND BIKEWAY UNDERPASSES, BRIDGES, and other crossing features should be constructed where necessary to maintain a continuous system of trails and bikeways.

Policy 2.4: STRIPED BICYCLE LANES and appropriate signage should be required ALONG NEW OR IMPROVED COLLECTOR OR HIGHER LEVEL STREETS. Bicycle lanes and signage may also be required along other streets, to be determined on a case by case basis.

Policy 2.5: PUBLIC BIKEWAY AND WALKWAY CONNECTIONS BETWEEN NEW AND EXISTING NEIGHBORHOODS should be encouraged. Local streets or connecting paths should be used as necessary to promote a town-wide network for pedestrian and bicycle travel. Public access to existing private sidewalk and trail systems shall be encouraged, especially when such trails serve as a critical link between destinations.

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

Policy 2.6: All FUTURE DEVELOPMENTS AND SITE PLANS should be examined for pedestrian and bicycle compatibility. Bikeway and pedestrian routes passing through or adjacent to new developments should be identified and planned for in the construction of such developments.

Policy 2.7: All new public and private non-residential developments should be encouraged to provide for BICYCLE PARKING and ACCESS if the development is within about 1000 feet of an existing or funded bikeway.

Policy 2.8: All future ROAD CONSTRUCTION AND IMPROVEMENTS should be examined for bikeway feasibility. In addition to the Summerfield Trail Plan, consideration should be given to state and regional hiking and biking initiatives such as the State Mountains to Sea Trail and the Greensboro Urban Area Metropolitan Planning Organization Bi-Ped Plan.

Policy 2.9: Bicycle facilities and their impacts should be included in TRAFFIC IMPACT ANALYSES for new developments, if such impact analysis is required.

Policy 2.10: PEDESTRIAN AND BICYCLE FRIENDLY SCHOOL ZONES should be established and implemented around all schools. Consider sidewalks as a priority near schools.

Policy 2.11: Trails and bicycle-related improvements and maintenance should be an integral component of the Town's ANNUAL BUDGET for public infrastructure. Appropriations toward the creation of a communitywide trail system shall be considered in the context of other Town budget priorities.

Common Objective 3: Community Character Preservation

The Town of Summerfield shall work to preserve a natural and built environment that honors the rural, small town heritage of the community. The Town shall set itself apart from other typical suburban bedroom communities by promoting diverse park and open space assets, "green" highway corridors, protected environmentally sensitive lands, and viable small family farms and equine facilities. New development shall preserve tree cover while avoiding "Anywhere USA" formulaic commercial architecture.

Policy 3.1: EXISTING, DESIRABLE LANDSCAPE ELEMENTS, whether natural or man-made, should continue to be incorporated into the thematic design of new developments.

Policy 3.2: LARGE TREES, PONDS, CREEKS, OR OTHER NATURAL FEATURES of the landscape should be saved when locating new streets, buildings, parking lots, etc.

Policy 3.3: FLOODPLAINS, WETLANDS, STEEP SLOPES, and OTHER LANDS that are typically not suitable for development, should be retained as permanent open space.

Policy 3.4: As some land is developed and other land is set aside in permanent open space, opportunities to CONNECT OPEN SPACE AREAS AND CORRIDORS shall be considered.

Policy 3.5: CLEARCUTTING OF TREES AND WOODLAND AREAS FOR DEVELOPMENT shall be avoided. Rather, new development should incorporate significant clusters of trees into the functional layout of new residential and commercial areas.

Policy 3.6: COMPATIBLE FARMLAND ACTIVITIES and the KEEPING OF HORSES OR OTHER SUITABLE LIVESTOCK shall generally be encouraged as part of the thematic and functional design of new residential areas.

Policy 3.7: TO HELP KEEP SMALL FAMILY FARMS VIABLE, agri-tourism, such as that associated with horseback riding, small produce stands (produce grown on site), corn mazes (no man-made amusements), hayrides, farm-oriented children's camps, and similar activities of an acceptable scale and intensity, shall generally be supported.

Policy 3.8: An OPEN SPACE ACQUISITION PROGRAM shall be employed to acquire open spaces for the enjoyment of the public and for the long term quality of the community. A variety of mechanisms for open space acquisition (e.g. land dedication, conservation easements, etc.) shall be considered, in addition to fee simple purchases.

Policy 3.9: GREEN SPACE BUFFER STRIPS, preserved along of edges of primary and secondary roadways in Summerfield, shall be a distinguishing feature and hallmark of the community. Clusters of trees shall be preserved or planted in informal, randomly spaced intervals as opposed to the uniformly spaced patterns often found in a more urban area. Walled off communities are not desired.

Policy 3.10: WATER QUALITY AND OPEN SPACE BUFFER STRIPS shall be preserved adjoining all perennial streams.

Policy 3.11: BUILDING ARCHITECTURE, BUILDING MATERIALS, SIGNAGE, AND SITE DESIGN that are compatible with Summerfield's rural heritage (rather than a suburban, "Anywhere USA" formula), shall be encouraged. (In particular, see Policy Area 1: Commercial Development and Policy Area 6: Housing and Residential Development)

Policy 3.12: BILLBOARDS shall be prohibited throughout the Town of Summerfield.

Common Objective 4: Transportation Improvements

The Town of Summerfield shall work proactively with the State DOT toward an efficient system of transportation, including thoroughfares, local roads, sidewalks, and trails. Advanced planning and follow-through shall be employed to create a functional system of streets and highways. New developments shall exhibit an inter-connected network of streets, sidewalks, trails, and bike paths to foster the continued evolution of Summerfield toward a more walkable and bikeable community. The Town will cooperate with efforts to provide public transit service between Summerfield and other areas.

Policy 4.1: INTERSTATE 73 should be designed to minimize negative impacts on the town. Noise abatement and effective screening should be used where necessary to buffer properties adjoining the interstate. Underpasses and overpasses should be employed to maintain pedestrian and bicycle linkages between areas on opposite sides of the highway. Special highway corridor

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

development standards, including a communitywide ban on billboards, should be established to maintain a high quality image for Summerfield. (Also see Policy Area 8 Community Appearance Policies.)

Policy 4.2: PEDESTRIAN AND BIKEWAY FACILITIES shall be encouraged as energy-efficient, healthful, and environmentally sound alternatives to the automobile. All future road construction and expansion within the town shall consider opportunities for bikeways and pedestrian ways within the project.

Policy 4.3: ACCESS TO MAJOR ROADS should generally be from intersecting minor roads, rather than private driveways. Minimum lot frontages, service roads, central medians, and other methods may also be employed to facilitate traffic movement and protect taxpayer dollars invested to build the facility.

Policy 4.4: So as to minimize unnecessary and unsafe turning movements on to and off of major roads, the Town shall require CONNECTIONS BETWEEN PARKING LOTS OF ADJOINING COMMERCIAL DEVELOPMENTS.

Policy 4.5: So as to (1) minimize the use of major roadways for purely local trips, (2) allow for public safety access, and (3) facilitate the development of Summerfield as a walkable and bikeable community, the Town shall encourage STREET CONNECTIONS BETWEEN ADJOINING RESIDENTIAL AREAS, provided that the street layout discourages cut through traffic through established residential neighborhoods.

Policy 4.6: As new neighborhoods are developed, AT LEAST TWO POINTS OF ACCESS/EGRESS to through streets should be planned for or provided for larger developments. The secondary access/egress may be gated with a breakaway wall for emergency services, but should allow for passage of pedestrians and bicyclists.

Policy 4.7: ACCESS TO HIGHER INTENSITY DEVELOPMENT shall generally not be permitted through an area of lower intensity development. For example, access to a multi-family development, major park facility or large traffic generator shall not be permitted through a single-family residential neighborhood.

Policy 4.8: To help avoid heavy traffic loads on local streets, MAJOR TRAFFIC GENERATORS such as major shopping centers, large retailers, major institutional centers, and other large non-residential developments should be located only at or near the intersection of two or more major roadways where extensive acreage is available. For Summerfield, this means the intersection of I-73 AND HIGHWAY 220.

Policy 4.9: New developments shall be required to MITIGATE THEIR TRAFFIC IMPACTS so as to preserve the traffic carrying capacity of public roadways.

Policy 4.10: PEDESTRIAN WALKWAYS should be provided through commercial parking areas and from the public street right of way to the building(s).

Common Objective 5: Water Supply and Sewage Treatment Options

The Town of Summerfield recognizes the singular importance of plentiful, safe, potable water to present and future residents and businesses. To preserve the availability of this resource, the Town shall make water supply, water conservation and groundwater recharge very high priorities and shall encourage its citizens to do likewise. Wastewater treatment technologies shall be employed to work in harmony with growth and development policies to conserve open space and rural character, and to return water to the groundwater system, while protecting the quality of the groundwater to meet all state standards.

Policy 5.1: The Town should work regionally on a broad range of WATER SUPPLY OPTIONS AND APPROACHES for the long term.

Policy 5.2: To improve short and long-range water supply projections, the Town shall support voluntary as well as institutional efforts to MONITOR GROUNDWATER SUPPLIES underlying the Summerfield community.

Policy 5.3: Recognizing that water and sewer services have a POWERFUL INFLUENCE ON GROWTH AND DEVELOPMENT, the Town of Summerfield shall require that the design and location of water supply and sewage treatment facilities promote desirable development density and growth patterns.

Policy 5.4: To preserve and protect recharge to the groundwater system, and to balance supply and demand, the Town shall facilitate development forms and domestic wastewater systems that maximize the RETURN OF WATER TO THE GROUNDWATER SYSTEM. Generally, this means encouraging greenspace1 developments, and on-site disposal or land application for treated wastewater.

Policy 5.5: The Town shall encourage site designs that FACILITATE RECHARGE TO THE GROUNDWATER SYSTEM, including but not limited to: (1) the conservation and addition of tree cover and associated forest floor debris, (2) the avoidance of curb and gutter in favor of roadside swales and retention areas (3) the preservation of open space (3) and the design of parking areas and other paved surfaces to encourage stormwater infiltration.

Policy 5.6: To conserve water supplies, developers, as well as area residents, are encouraged to plant TRADITIONAL PLANTS NATIVE TO THE AREA as well as DROUGHT TOLERANT LANDSCAPE MATERIALS.

Policy 5.7: Construction of NATURAL AND MAN-MADE RAINWATER RETENTION SYSTEMS IS ENCOURAGED. Such systems should include but not be limited to rain gardens, bio-retention areas, green roofs, cisterns, and rain barrels.

Policy 5.8: New developments may be required to size and design water retention facilities to serve as WATER RESERVOIRS TO ENHANCE NEARBY FIRE FIGHTING CAPABILITIES.

Policy 5.9: WATER SAVING DEVICES are encouraged in new and existing homes and businesses. Such water saving devices include but are not limited to: low-flow shower heads; high efficiency clothes washing machines and dish washers; and, high-efficiency toilets.

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

Policy 5.10: The Town shall favor TWO TYPES OF DOMESTIC SEWAGE TREATMENT AND DISPERSAL: (1) individual, on-site septic systems in large lot, low density areas, and (2) cluster or decentralized wastewater treatment systems serving multiple homes where a combination of open space and cluster development is necessary or preferred.

Policy 5.11: CLUSTER OR DECENTRALIZED DOMESTIC WASTEWATER TREATMENT SYSTEMS, when employed, shall direct development to areas best suited for growth and away from areas best suited for open space and/or environmental conservation.

Policy 5.12: EFFLUENT FROM CLUSTER OR DECENTRALIZED DOMESTIC WASTEWATER TREATMENT SYSTEMS shall be disposed of in an environmentally appropriate manner and location.

Policy 5.13: The Town shall encourage the development of domestic sewer services that employ WATER REUSE TECHNOLOGIES for appropriate application of treated effluent in open spaces, golf courses and other areas.

Policy 5.14: COMMERCIAL AND INDUSTRIAL WASTEWATER treatment and disposal shall be in accordance with state permitting standards, including applicable watershed regulations.

Common Objective 6: Appropriate Housing and Residential Development

Summerfield's appealing residential areas, exemplified by neighborhoods set among expanses of open space, woodlands, and pastures, shall continue to be a defining attribute of the community. To accommodate housing for younger families and senior citizens while promoting and protecting rural character, the inclusion in residential development of smaller single family detached homes shall be encouraged over twin and other multi-unit residential buildings. Walkable, bikeable neighborhoods will be favored. An open system of pedestrian and bicycle friendly streets should work together with a network of greenway trails to connect neighborhoods with each other and with the rest of the town.

Policy 6.1: Residential development in Summerfield should remain mostly LOW DENSITY, SINGLE-FAMILY DETACHED HOUSING. Appropriate instances for other housing forms, such as SMALL ATTACHED AND ACCESSORY HOUSING should also be fostered to meet a variety of housing needs.

Policy 6.2: A VARIETY OF HOUSING TYPES AND SIZES should be provided within the general bounds of large developments.

Policy 6.3: Architecturally compatible and integrated ACCESSORY HOUSING, such as mother-in-law suites, carriage houses, and granny flats, are encouraged to improve housing affordability and allow for extended family care, especially for senior citizens.

Policy 6.4: OPEN SPACE RESIDENTIAL DEVELOPMENT, also known as GREENSPACE DEVELOPMENT, shall be preferred as environmentally sound and economically cost effective. LARGE LOT DEVELOPMENT may occur when greenspace development is not feasible or appropriate to the site.

Policy 6.5: OPEN SPACE DEDICATION requirements should be applied equitably to all residential developments regardless of the number of planned housing units. If a development is not appropriate to set aside useful open space, a FEE IN LIEU OF LAND DEDICATION may be collected to help provide for future open space acquisition. (Also see Policy 7.3)

Policy 6.6: OPEN SPACE CREDITS will continue to be offered for the provision of SIDEWALKS, BIKEWAYS, and TRAILS in new developments.

Policy 6.7: The Town should allow for some land development for MODERATELY PRICED HOUSING consistent with Policy 6.1.

Policy 6.8: NEW INFILL HOUSING should be architecturally compatible with existing structures, landscape features, and the streetscape within its vicinity.

Policy 6.9: So as to maintain the traffic moving function of the Town's primary roads, prevent traffic accidents, and avoid land locking interior land parcels, RESIDENTIAL AND COMMERCIAL STRIP DEVELOPMENT should be discouraged.

Policy 6.10: MIXED USE DEVELOPMENT, meaning a combination of commercial and compatible institutional (e.g. assisted living facilities) and residential development, may be encouraged at appropriate locations to reduce automobile dependency and provide for housing alternatives, and to accommodate an aging population.

Common Objective 7: Parks and Recreation Improvements

Summerfield values its open space and park and recreation facilities, which help define the community's image and quality of life. To serve the increasing numbers of children, families, senior citizens, and others calling Summerfield home, the Town shall provide quality parks and recreation facilities and services commensurate with community needs. Smaller parks should continue to be provided by private developments at the neighborhood level. Larger parks should be provided as a result of advanced planning and development by the Town. An extensive system of open space and greenway trails should be developed to connect large and small park areas and to serve as natural corridors for the movement of wildlife.

Policy 7.1: In determining SITES FOR PARK, RECREATION AND OPEN SPACE AREAS, multiple objectives for natural area conservation, open space connectivity, visual impacts, preservation of cultural and historic assets, watershed enhancement and flood prone area protection shall be considered.

Policy 7.2: LAND FOR PARK, RECREATION, AND OPEN SPACE FACILITIES should be acquired in advance of development pressures, if possible, to achieve desirable locations at cost effective levels, park development should be commensurate with identified community needs.

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

Policy 7.3: NEW DEVELOPMENTS SHALL PROVIDE FOR ADEQUATE OPEN SPACE or, alternatively, fees placed in an open space trust fund, in proportion to the demand created by the development. This may be determined, for example, by the number of dwelling units in the development and/or by a percentage of the total acreage or square footage in the development. (Also see Policy 6.5)

Policy 7.4: The Town supports the CO-LOCATION, JOINT DEVELOPMENT, and SHARED USE of park, open space, and recreation facilities in cooperation with institutions and organizations such as public schools, utility companies, and federal, state, and local government agencies.

Policy 7.5: The Town supports the planning and development of a system of open space GREENWAYS AND HIKING TRAILS that connect parks and recreation facilities throughout the community and connecting to other trail systems and parks beyond the Town limits.

Policy 7.6: The Town shall work proactively with other local and state governments, utility companies, and other major landowners in the development of WALKING AND BICYCLING TRAILS for the public.

Policy 7.7: The Town shall proactively work with organizations that provide RECREATIONAL PROGRAMMING to Summerfield residents to meet the recreational needs of the community.

Common Objective 8: Attractive Community Appearance

Community appearance can create a positive town image and sets the tone for all development to follow. An attractive community enhances the quality of life of town residents, and attracts visitors and businesses to the area that share the same values of quality and sustainability. Community appearance deals largely with what can be seen from the public roadway. Appearance issues deserving of public policy and action include exterior lighting, junked vehicles, preservation of tree cover, the presence or absence of street trees, the appearance of public and private signage, streetscape conditions, parking lot landscaping, architectural design and building form, public and private outdoor displays, the presence or absence of overhead wires, the design and location of communication towers, and the way in which local development practices seek to preserve the natural features of land.

Policy 8.1: EXTERIOR LIGHTING should be attractive, functional, and safety conscious, and shall be designed and shielded to avoid negative impacts on the night sky visibility of Summerfield.

Policy 8.2: LANDSCAPE IMPROVEMENTS AT EXISTING AND NEW COMMERCIAL DEVELOPMENTS, particularly as related to breaking up and softening the appearance of expansive parking areas, shall be encouraged.

Policy 8.3: UTILITIES should be placed underground in all new residential and non-residential developments. Individual and other smaller scale developments along a road where overhead utilities are the norm may be exempted from this requirement until such time as overhead to underground conversion is to be completed over the larger area involved.

Policy 8.4: While WIRELESS SERVICE technology should be facilitated as a significant benefit to the town and its residents, Town approval of necessary TOWERS (or existing structures retrofitted for same) shall take the public health, safety, and welfare of area residents, as well as the visual quality of the town landscape into consideration.

Policy 8.5: DESIGN STANDARDS should be employed so that development and redevelopment is consistent with the architectural context, community character, economic attractiveness, and livability of Summerfield. (Also see Policy Area 3: Community Character Preservation, for policies concerning tree preservation.)

Policy 8.6: The important economic and community image benefits of attractive MAJOR TRAVEL CORRIDORS through the town shall be recognized. Such entryway corridors shall receive priority attention for improved appearance and development standards, including screening, landscaping, signage, tree preservation, and underground utilities.

Policy 8.7: PARKING AREAS adjoining major roads should be generally screened from view using appropriate design elements, topographic features, and/or plantings. Plants should be tall enough at maturity to obscure views of parked cars without jeopardizing traffic safety. Service, loading, and trash dumpster areas should be completely screened.

Policy 8.8: SPECIAL ROADWAY OVERLAY ZONING should be employed to help implement roadway corridor plans, particularly with regard to development standards for buildings, signage, and parking areas within sight of the roadway.

Policy 8.9: Proper code enforcement shall be employed to deal with the public health, safety, and appearance issues of ABANDONED AND NEGLECTED PROPERTIES, as well as general trash and debris.

Policy 8.10: BILLBOARDS shall be prohibited throughout the Town of Summerfield.

Policy 8.11: UNLICENSED VEHICLES shall not be permitted to remain in locations visible from any public right of way, except as may be specifically permitted within an approved junkyard. Unlicensed farm vehicles, parked on farm property, should be exempt from this policy.

Common Objective 9: Quality School Facilities

The Town of Summerfield shall continue to work closely with Guilford County Schools and local public and private school leaders to support the construction, rehabilitation and maintenance of high quality schools serving the community. Schools should be located and designed to be accessible to the neighborhoods around them. Access to such schools by walking and biking should be encouraged, provided that safety and security issues are addressed. Rather than functioning as single purpose “factories to educate children”, schools in Summerfield should serve as true community centers, providing meeting space for community gatherings, recreational events, and other functions. Mobile classrooms should be avoided.

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

Policy 9.1: **ADVANCED PLANNING FOR THE LOCATION AND CONSTRUCTION OF NEW PUBLIC SCHOOLS** serving Summerfield should be a joint effort between the Guilford County School Board and the Town. The Town shall work proactively to engender a close working relationship between the two governmental authorities.

Policy 9.2: New and rehabilitated schools in Summerfield should be integrated with the **DESIGN OF THE COMMUNITY AND NEIGHBORHOODS** around them.

Policy 9.3: Site planning for **TRAFFIC MANAGEMENT** in the vicinity of schools, including **PEDESTRIAN AND BICYCLE SAFETY**, shall be given careful attention. On-street and off street travel corridors within walking distance of all schools should be a priority for construction of sidewalks, bike paths, and pedestrian trails.

Policy 9.4: The Town, through its development review process, and in coordination with the County, shall encourage **OFFERS OF LAND** for the siting of new public schools, particularly in conjunction with the development of nearby neighborhoods. Acceptance of such offers shall depend upon location criteria and other factors.

Policy 9.5: The **CO-LOCATION AND JOINT DEVELOPMENT** of public parks and recreation facilities in conjunction with public schools shall be encouraged.

Policy 9.6: School design and access should give a high priority to **SECURITY CONCERNS**, during both school hours and after hours activities.

Policy 9.7: Schools should be viewed as a social and cultural cornerstone of the community they are intended to serve. **FUNCTIONS DURING NONSCHOOL HOURS** might include, for example, senior activities, fitness classes, youth recreation, and clubs.

Common Objective 10: Summerfield Road Focus Area

The Summerfield Road Focus Area shall be supported as the historic and cultural center of the Summerfield community. The heart of this area should remain a varied, yet compatible, mix of residential and non-residential uses. A fire station, elementary school, community park, day care center, post office, eye doctor, feed mill, specialty auto dealership, and real estate office are representative of the non-residential uses that, together with a variety of single family homes, should continue to make up this important part of Summerfield. The Town shall also support preservation efforts associated with the National Register Historic District, and the desirability of a neighborhood level service area that includes Town Hall. Going forward, the Summerfield Road Focus Area should continue to be a natural location for community gatherings as well as basic services for local residents. Whatever uses go into this area, it is important that they be compatible, in both appearance and function, with uses on surrounding properties.

Policy 10.1: Various sections of Summerfield Road should be treated according to their **UNIQUE CHARACTERISTICS**; policies and related ordinances should respect and reinforce the “natural leanings” of each road section. Specifically, the following areas and characteristics may be described: A.) **A MIXED USE NODE AT THE INTERSECTION OF NC 150 AND SUMMERFIELD ROAD** (near Town Hall)—for local, neighborhood-oriented services convenient to town residents. With meaningful input and guidance from property owners, there also exists the potential to extend this node to the north and east toward US 220, thereby creating a gateway corridor to the heart of the community. B.) **RECOGNITION OF THE NATIONAL REGISTER HISTORIC DISTRICT** on both sides of Summerfield Road south of Town Hall to Medaris Street, and a few lots west along Oak Ridge Road—respecting the architectural character and heritage of the buildings found there. (See Policy Area 11: Historic Preservation for detailed land use and design policies pertaining to this area.) C.) **A CENTRAL MIXED USE AREA ALONG SUMMERFIELD ROAD** extending from Centerfield Drive at the Elementary School south to Auburn Road—for low impact non-residential uses that are able to coexist with nearby residences. (See Policy 10.2 Below) D.) The balance of the Summerfield Road Focus Area should be for residential uses.

Policy 10.2: **BUSINESSES LOCATED IN THE CENTRAL SECTION OF THE SUMMERFIELD ROAD FOCUS AREA** should ... • be of a **RESIDENTIAL SCALE AND DESIGN** character. • have a **MARKET AREA** serving primarily a local clientele. • have no **OUTSIDE LIGHTING** beyond that associated with a residence. • have understated **SIGNAGE** with low level lighting. • have **OPERATING HOURS** compatible with a residential area. • be of a type that generates low **TRAFFIC COUNTS** • limit the **RATIO OF FLOOR AREA TO LOT AREA** to that of nearby residential uses. • retain **TREES** and provide **LANDSCAPED BUFFER STRIPS** when adjoining a residential use or district and offer substantial buffering within one or two growing seasons. • provide parking lot and site **LANDSCAPING** greater than that associated with a typical commercial use. • provide **STORMWATER RETENTION** and release to match predevelopment/redevelopment conditions. • carefully control service and customer **VEHICULAR ACCESS** to minimize light and noise impacts.

Policy 10.3: Summerfield’s off-road **TRAIL AND SIDEWALK NETWORK** should lead to and from the Summerfield Road Focus Area as the hub of a community-wide pedestrian system. Sidewalks and bikeways should also be required for any future development or redevelopment within the area. (Also see Policy Area 2)

Common Objective 11: Historic Preservation

The Town of Summerfield will strive to preserve the rural and small town heritage of the community. The Town and its Boards and Committees will continue to work with property owners toward the identification, designation, restoration, and preservation of individual buildings, sites, and areas that contribute to the historic foundations and quality of life in the town. In addition to buildings and sites, the Town will also support efforts to document and share the unique cultural history of the area.

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

Policy 11.1: The identification, restoration, and active use of structures, buildings, monuments, landmarks, sites, and neighborhoods of HISTORIC OR ARCHITECTURAL SIGNIFICANCE should be encouraged to safeguard the heritage of the town, and to enhance their educational, economic, and cultural value to the community and state.

Policy 11.2: The DESTRUCTION OF ARCHITECTURAL, HISTORIC, AND ARCHAEOLOGICAL RESOURCES of the Summerfield community should be strongly discouraged.

Policy 11.3: MULTIPLE AND ADAPTIVE REUSE OF HISTORIC RESOURCES should be encouraged. Examples include the conversion of an historic building to a restaurant or coffee house, small retail shops, office space or a bed and breakfast. The new use should be appropriate to the location.

Policy 11.4: Appropriate development of the town's ARCHITECTURAL, HISTORIC, SCENIC, and NATURAL RESOURCES should be encouraged.

Policy 11.5: New development, redevelopment, and rehabilitation of structures and sites should occur in a manner that is consistent with the NEIGHBORHOOD AND ARCHITECTURAL CONTEXT of the immediate area and supportive of Summerfield's rural, small town heritage.

Policy 11.6: Owners of historic properties should be encouraged to take advantage of STATE AND FEDERAL TAX CREDITS when restoring their properties.

Policy 11.7: Local efforts to document and share the unique CULTURAL HISTORY of Summerfield should be supported and encouraged.

Common Objective 12: Summerfield as a Limited Services Local Government

The Town of Summerfield shall continue to control its own destiny—the Town shall remain an independent community, carefully managing its own finances and its own growth and development. Town government should be small and accessible, citizen-engaged, with services limited and taxes kept low. Town government should continue to focus on the highest priorities of area residents— managing growth and preserving and enhancing the area's quality of life.

Policy 12.1: The Town should continue to employ a MULTIPLE COMMITTEE STRUCTURE to advise the Town Council and to constructively engage citizen volunteers in the governance of their community.

Policy 12.2: The Town should continue to employ CONTRACTED SERVICES as an efficient way to hold down fixed costs and overhead, and to direct resources to service areas where most needed at any given time.

Policy 12.3: ADDITIONS TO THE TOWN STAFF should be considered when it can be shown that the on-going, regular demand for a particular service becomes so great as to make contracted services more costly to Town taxpayers and/or less effective than if it were handled in-house.

Policy 12.4: The Town should minimize municipal OWNERSHIP OF INFRASTRUCTURE (e.g. water and sewer systems) not identified as a priority by the citizens or mandated by the county or state government.

Policy 12.5: Carefully BALANCE CITIZEN PRIORITIES for enhanced quality of life, with concept of limited services and low taxes. Continue to make budget process transparent to community and use as a tool to prioritize efforts to implement the Comprehensive Plan and goals of the Town Council.

The whole of Article X is added and approved by Town Council _____.

PLANNED DEVELOPMENT APPENDIX 2:

TOWN OF SUMMERFIELD DEVELOPMENT ORDINANCES THAT APPLY TO PLANNED DEVELOPMENT

Subsequent development within the PD District requires administrative review and approval as appropriate, subject to the requirements of this Section.

Development Ordinance Article 3 (Permits and Procedures) Sections 3-1 through 3-10.

3-1 PERMIT REQUIRED

No person shall undertake any development activity subject to this Ordinance without first obtaining a permit from the Summerfield Zoning Board, the Planning Department, or the County or State agency responsible for issuing such permit.

3-2 PERMIT EXEMPTIONS

3-2.1 Building Permit Exemptions

The following are exempt from building permit requirements:

- (A) Farm buildings (other than residences) for farm use;
- (B) Facilities for storing, handling and utilizing liquefied petroleum gases for fuel and anhydrous ammonia or other liquid fertilizers; but not including tanks and tank farms;
- (C) Facilities of a public utility or an electric or telephone membership corporation (except buildings);
- (D) Accessory buildings with no horizontal dimension greater than twelve (12) feet; and
- (E) Federal or State owned buildings.

3-2.2 Grading Permit Exemptions

The following land-disturbing activities are exempt from grading permit requirements:

- (A) For the purpose of fighting fires;
- (B) For the stock piling of raw or processed sand, stone, or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage;
- (C) Areas that do not exceed one (1) acre in surface area. In determining the area, lands under one or diverse ownership being developed as a unit shall be aggregated;
- (D) Those undertaken on agricultural land for the production of plants and animals useful to man, including but not limited to: forage and sod crops, grain and feed crops, tobacco, cotton and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all such animals; bees and aviary products; fur animals;
- (E) Those undertaken on forest land for the production and harvesting of timber and timber products and which are conducted in accordance with Forest Practice Guidelines Related to Water Quality (best management practices) as adopted by the North Carolina Department of Environment, Health and Natural Resources (DEHNR). If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this Ordinance shall apply to such activity and any related land-disturbing activity on the tract;
- (F) Mining activity undertaken by persons as defined in NCGS 113A-52(8) who are otherwise regulated by the provisions of The Mining Act of 1971, NCGS 74-46 through 74-68; and
- (G) Land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in NCGS 113A-56(a).

3-2.3 Sign Permit Exemptions

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

No sign permit shall be required for signs exempted by Section 6-1 (Sign Regulation).

3-3 PERMIT APPLICATIONS

3-3.1 General Requirements

- (A) Submission: Unless otherwise specified, all applications for permits under this Ordinance shall be submitted by the owner of the property or the authorized agent of such owner. The Planning Department may require reasonable proof of agency from any person submitting an application as an agent.
- (B) Form of Submission: An application for any permit under this Ordinance shall be submitted in such form, number of copies and format as required by Appendix 3 (Table of Required Information for Obtaining a Permit), together with such fees as required.
- (C) Waiver of Submission Requirements: The Planning Department may waive submission of required elements of information when, in the opinion of staff, such information is otherwise available or is not necessary to review the application. If these requirements are not waived, the Planning Department may refuse to process an incomplete application.
- (D) Processing: All applications for permits shall be submitted, reviewed and processed in accordance with the requirements of this Ordinance.
- (E) Approved Plans: A copy of required plans or information submitted with the application shall be returned to the applicant after the Planning Department or the Summerfield Zoning Board has marked the copy either approved or disapproved and attested to same. A similarly marked copy shall be retained by the Planning Department.
- (F) Improvement Permit and Authorization to Construct Required: A permit for any building or use for which a State or County Health Department Improvement Permit for installation of a well and/or an Improvement Permit/Authorization to Construct a new sewage disposal system is required shall not be issued until such Improvement Permit or Authorization to Construct has been issued by the State or County Health Department.
- (G) Conformance with "Airport Overlay District": The Summerfield Zoning Board or the Planning Department shall not issue a building, sign, or use/location Permit or Certificate of Occupancy for any building or sign not in conformity with the provisions of the "Airport Zoning Overlay District," except upon written order of the Board of Airport Zoning Appeals.
- (H) Conformance with Other Overlay Districts: The Summerfield Zoning Board or the Planning Department shall not issue a building, sign, or use/location Permit or Certificate of Occupancy for any building or sign not in conformity with the provisions of any applicable overlay district as delineated in Article 4.

3-3.2 Building, Sign, Use/Location Permits

Application for a building, sign, and use/location permits shall be made to the Planning Department.

3-3.3 Event Permit

- (A) Application: Application for an event permit shall be made to the Summerfield Planning Department at least three (3) working days prior to the start of the event.
- (B) Permit Required: An event permit shall be obtained for non-permanent facilities and activities which will have a duration more than three (3) days but not more than thirty (30) days. Example of this type of event uses are: a carnival, a turkey shoot, a revival or similar activity conducted on a short term basis. Turkey shoots may have a duration not to exceed ninety (90) days. Refer to Section 6-4 (Development Standards) for additional requirements for Turkey Shoots.
- (C) Purpose of Permit: The purpose of this permit will be to authorize a specific use for a defined period of time; and to coordinate health, traffic, and other code specific inspections necessary to the safe and healthful operation of the event.
- (D) Permit Issuance: The event permit shall not be issued until evidence is shown that the following conditions have been or will be complied with:

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Town of Summerfield Development Ordinance Article X

- 1) Ample off-street parking shall be provided for the event, in addition to required parking for the use or uses located at the event site;
 - 2) The owner of the property where the event is to be held, or his agent, shall provide to the Summerfield Zoning Board written authorization that the event may take place on the property;
 - 3) An event held outside of a building and within five hundred (500) feet of any residence shall cease operation by 10:00p.m.;
 - 4) Noise shall be controlled so that no adjoining property owner or occupant is unduly disturbed by the event; and
 - 5) Licenses and/or permits required by other agencies shall be obtained prior to the issuance of the event permit.
- (E) Maximum Number of Permits: No more than three (3) permits may be issued on the same property for the same event in any one calendar year.

3-3.4 Grading Permit

Application for a grading permit shall be made to the Planning Department, in accordance with provisions of Section 7-4 (Soil Erosion and Sedimentation Control). A Certificate of Erosion Control Performance is required in accordance with Section 3-8.3.

3-3.5 Floodplain Development Permit

- (A) 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 7-5.3(B);
- d) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 7-5.3(B);
- e) The base flood elevation (BFE) where provided as set forth in Sections 7-5.3(B); 9-6.3(11 & 12); or 7-5.9;
- 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

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Town of Summerfield Development Ordinance Article X

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 flood-proofed.

- (3) If flood-proofing, a Flood-proofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of flood-proofing 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/shear walls);
 - b) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Section 7-5.8(B)(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 7-5.8(B)(6) 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 the 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 7-5.3(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.

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- (8) Limitations of fellow BFE enclosure uses (if applicable) (i.e. Parking, Building Access and Limited Storage only).

3-4 PERMIT ISSUANCE

3-4.1 Permit Sequence

(A) Order of Review and Issuance: The order of permit issuance shall be as follows:

- 1) A Grading Permit may not be issued in advance of site plan approval, preliminary plat approval, or watershed development plan approval.
- 2) The following permits or plans, if required, shall be issued or approved prior to the issuance of a building, sign, use, location, or occupancy permit: a Health Department Improvement Permit/ Authorization to construct for well or septic; a driveway permit; sewer and water construction plans; and a site or plot plan.

(B) Recordation of Final Plats: Recordation of Final Plats may be deferred on group development projects and projects in excess of fifty thousand (50,000) square feet of gross floor area. A Certificate of Occupancy may not be issued until all platting requirements are met.

(C) Phasing of Projects: Phased projects may be occupied in phases as long as compliance is achieved in each phase, and access and other requirements are met.

(D) Permits Prior to Final Plan Approval: The Summerfield Planning Department may issue permits for model homes, temporary construction trailers, safety structures, and other customary construction mobilization structures prior to site plan and final plat approval.

(E) Concurrent Review: Review of plans may be concurrent, but permit issuance must follow the procedure and sequence set forth in Article 3-4.1(A) Order of Review and Issuance.

3-4.2 Fees

The Governing Body may establish a Schedule of Fees, charges and expenses, and a collection procedure, for building permits, sign permits, use/location permits, conditional use and special use permits, grading permits, variances, waivers, appeals and other matters pertaining to this Ordinance. No permit, certificate, variance etc. shall be issued unless or until such costs, charges, fees, or expenses as established, have been paid in full, nor shall any action be taken on proceedings before the administrative board authorized by this Ordinance unless or until charges and fees have been paid in full.

3-5 PERMIT APPEALS

3-5.1 Permit Denial

Any owner or occupant who has been denied a permit may appeal the denial by giving notice of appeal in writing to the Summerfield Zoning Board within (15) days, in accordance with Section 9-7 (Appeals).

3-5.2 Appellant Body

An appeal from permit denial shall be made to the appropriate body in accordance with Section 9-7 (Appeals).

3-6 INSPECTIONS AND INVESTIGATIONS

3-6.1 Periodic Inspections

The Summerfield Enforcement Officer shall have the right, upon presentation of proper credentials, or inspection warrant if necessary, to enter on any premises within jurisdiction of the Governing Body at any reasonable hour for the purposes of inspection, determination of plan compliance or other enforcement action.

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3-6.2 Investigation

The Summerfield Enforcement Officer shall have the power to conduct such investigation as he may reasonably deem necessary to carry out his duties as prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this Ordinance.

3-6.3 Written Statements

The Governing Body or its agent shall also have the power to require written statements, certificates and certifications or the filing of reports under oath, with respect to pertinent questions relating to complaints or alleged violations of this Ordinance.

3-7 PERMIT EXPIRATION

3-7.1 Building, Sign, Use/Location Permit Expiration

- (A) Start of Construction: If the work authorized by a building, sign, use, or location permit has not begun within one-hundred and eighty (180) days from the date of issuance thereof, the permit shall be void and a new permit, consistent with all provisions of this Ordinance, shall be required. For purposes of this Section, construction shall be deemed to have begun at the time of completion of an approved foundation inspection.
- (B) Permit Continuance: If, after start of construction, the work is discontinued for a period of one (1) year, the permit shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.
- (C) Posting: The building sign, use, or location permit must be posted in a prominent place on the site at all times it is in effect.

3-7.2 Grading Permit Expiration

- (A) Expiration: A grading permit shall be valid for one (1) year unless it is revoked by the Summerfield Planning Department or the grading project is completed and a Certificate of Compliance is issued by the Summerfield Planning Department within the one (1) year period.
- (B) Renewal: The grading permit may be reissued for an additional one hundred eighty (180) day period, if adequately justified, by making a written request to the Summerfield Planning Department. No permit fee will be required for re-issuance of a grading permit; however, the applicable surety shall remain in effect.
- (C) Eighteen (18) Month Limit: If grading or protection of the site is not completed within eighteen months, the person conducting the land-disturbing activity shall be required to obtain a new grading permit by following the same procedures whereby the original permit was issued.
- (D) Posting: The grading permit must be posted in a prominent place on the site of the land-disturbing activity at all times it is in effect.

3-7.3 Improvements Permit Expiration

- (A) Application Expiration: The application and pertinent information prepared as necessary to obtain an Improvements Permit becomes invalid two (2) years from the date of application or expires upon expiration of the Preliminary Plat whichever comes first.
- (B) Permit Expiration:
 - 1) Improvements Permits for which a plot plan is provided shall be valid without expiration.
 - 2) Improvements Permits for which a health drawing is provided shall be valid for five (5) years.
 - 3) An Improvement Permit, once approved, may be revoked, pursuant to Section 8-4.6, if there have been alterations of the site or soil conditions, changes to the proposed facility, or document falsification causing revocation of the permit.

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3-8 CERTIFICATE REQUIREMENTS

3-8.1 Certificate of Occupancy and Compliance

- (A) Certificate of Occupancy Required: No land, building, or sign shall be structurally altered, erected, moved, occupied, or its use changed until a Certificate of Occupancy is issued by the Summerfield Planning Department. This certificate shall state that the building and/or proposed use thereof complies with the provisions of this Ordinance. Farm uses and buildings, except residences, are exempt from the provisions of this Ordinance outside municipalities.
- (B) Nonconforming Use: A Certificate of Occupancy shall be required for the purpose of renewing or altering a nonconforming use.
- (C) Certificate of Occupancy Application: A Certificate of Occupancy shall be applied for concurrently with the application for a building, sign, use /location permit.
- (D) Issuance: A Certificate of Occupancy shall be issued as soon as practical after completion of construction or alterations of such building or sign after:
 - 1) Inspection by the Planning Department to determine compliance with all applicable provisions of this Ordinance;
 - 2) If required, issuance of an Operations Permit for a septic system or other approved sanitary disposal method by the County or State Health Department;
 - 3) Compliance with all applicable provisions of related health, building, and fire codes.
- (E) Certificate of Occupancy and Compliance: A Certificate of Occupancy may also serve as a Certificate of Compliance under the building code, in which case it shall be known as a Certificate of Occupancy and Compliance.

3-8.2 Temporary Certificate

A Temporary Certificate of Occupancy may be issued by the Summerfield Planning Department prior to the completion of all construction, alterations, or changes if such occupancy will not violate any health or safety considerations of applicable codes.

- (A) Time Period: A Temporary Certificate of Occupancy may be for a time period as the Summerfield Planning Department deems appropriate to complete the work, but not to exceed one hundred eighty (180) days.
- (B) Surety: A surety will be posted in an amount sufficient to insure that the missing elements specified in the plan will be accomplished within the period of the Temporary Certificate of Occupancy.
- (C) Work Incomplete: If the work is not completed within the period of the Temporary Certificate of Occupancy, the Summerfield Planning Department shall notify the owner. The owner shall cease use of the building and land immediately and shall not resume such use until a Certificate of Occupancy has been issued. Failure to cease use shall subject the owner or operator to civil penalties and other enforcement actions available under this Ordinance and Compliance with all applicable provisions of related health, building, and fire codes.
- (D) Certificate of Operation: If required, an Operations Permit for a septic system, or other approved sanitary disposal method, must be issued by the County or State Health Department prior to temporary occupancy.

3-8.3 Certificate of Erosion Control Performance

A Certificate of Erosion Control Performance shall be issued after initial soil erosion and sedimentation control devices have been installed, inspected and certified to be installed and functioning properly in accordance with an approved grading plan. After issuance of a grading permit, grading on the site shall be limited to that required to install soil erosion and sedimentation control devices until the Certificate of Erosion Control Performance is issued.

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3-8.4 Certificate of Floor Elevation/Flood Proofing

If the property is located in a flood hazard area, a Certificate of Floor Elevation or Flood Proofing after the lowest floor is completed shall be provided within twenty-one (21) days of establishment of the flood-proofing by whatever construction means. It shall be the duty of the permit holder to submit to the Summerfield Planning Department a certificate of the elevation of the lowest floor, flood-proofed elevation, or the elevation of the bottom of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty-one (21) day period and prior to submission of the certification shall be at the permit holder's risk. The Summerfield Planning Department shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make corrections required hereby shall be cause to issue a stop-work order for the project.

3-8.5 Certificate of Appropriateness

A Certificate of Appropriateness shall be required for all activities of any property designated as an Historic Landmark Property by the Guilford County Historic Preservation Commission whether a building permit is otherwise required or not.

3-8.6 Record

A record of all certificates shall be kept on file by the Summerfield Planning Department.

3-8.7 Construction and Use

Construction and use as provided in the Certificate of Occupancy, building permit, use/location permit, sign permit or grading permit issued on the basis of approved plans or applications authorizes only the use, arrangement, and construction set forth in such approved plans or applications. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation.

3-9 DEDICATION OR RESERVATION OF RIGHT-OF-WAY

3-9.1 Dedication of Right-of-Way with Density Transfer

Whenever a tract of land located within the Jurisdiction is proposed for subdivision or for use pursuant to a special use permit, and a portion of it is embraced within a corridor for a street or highway on a plan established and adopted pursuant to NCGS 136-66.2, the Jurisdiction may provide for the dedication of right-of-way within that corridor pursuant to any applicable legal authority, or:

- 1) The Jurisdiction may require an applicant for subdivision plat approval or for a special use permit, or for any other permission pursuant to a land use control ordinance authorized by local act to dedicate for street or highway purpose, the right-of-way within such corridor if the Jurisdiction allows the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant. No dedication of right-of-way shall be required pursuant to this Section unless the board or agency granting final subdivision plat approval or the special use permit, or permission shall find, prior to the grant, that the dedication does not result in the deprivation of a reasonable use of the original tract and that the dedication is either reasonably related to the traffic generated by the proposed subdivision or use of the remaining land or the impact of the dedication is mitigated by measures provided in this Ordinance.
- 2) If the Jurisdiction does not require the dedication of right-of-way within the corridor pursuant to subsection 1) of this Section or other applicable legal authority, but an applicant for subdivision plat approval or a zoning or building permit, or any other permission pursuant to land use control ordinance authorized by local act elects to dedicate the right-of-way, the Jurisdiction may allow the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land that is part of a common development plan.

3-9.2 Reservation of Right-of-Way Through Official Roadway Corridor Maps

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Town of Summerfield Development Ordinance Article X

- (A) Authority: Under the authority granted by NCGS 136-2E Governing Bodies or NC Department of Transportation may from time to time adopt, amend, supplement, or change a roadway corridor official map for any streets or roadways identified on the adopted Thoroughfare Plan
- (B) Effect of Roadway Corridor Official Map
- 1) After a roadway corridor official map is filed with the Register of Deeds, no building permit shall be issued for any building or structure or part thereof located within the roadway corridor, nor shall approval of a subdivision, as defined in Article V (Subdivisions: Procedures and Standards), be granted with respect to property within the roadway corridor. The provisions of this Section shall not apply to valid building permits issued prior to the effective date of this Section, or to building permits for buildings and structures which existed prior to the filing of the roadway corridor, provided the size of the building or structure is not increased and the type of building code occupancy as set forth in the NC Building Code is not changed.
 - 2) No application for building permit issuance or subdivision plan approval shall be delayed by the provisions of this Section for more than three (3) years from the date of the original building permit or subdivision plan submittal.
 - 3) Real property that lies within a roadway corridor marked on an official map is designated a special class of property and is taxable at twenty (20%) percent of the general tax rate levied on real property by the taxing unit in which the property is situated if:
 - a) As of January 1, no building or other structure is located on the property; and
 - b) The property has not been subdivided, as defined in Article V (Subdivisions: Procedures and Standards), since it was included in the corridor.

3-10 SURETIES OR IMPROVEMENT GUARANTEES

3-10.1 Agreement and Security

- (A) Financial Guarantee in Lieu of Immediate Installation for Approval: In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval or issuance of the Certificate of Occupancy, the Jurisdiction may enter into an agreement with the developer whereby the developer shall complete all required improvements. Once said agreement is signed by the developer and the security required herein is provided, the final plat may be approved or the Certificate of Occupancy may be issued, if all other requirements of this Ordinance are met. To secure this agreement, the developer shall provide any or a combination of the following guarantees to cover the costs of the uncompleted improvements;
- 1) Surety Performance Bond(s)
 - a) The developer shall obtain a surety bond from a surety bonding company authorized to issue said bonds in North Carolina.
 - b) The bond shall be payable to the Jurisdiction and shall be in an amount equal to 125% (one-hundred twenty five percent) of the entire estimated cost as approved by the Jurisdiction, of installing all uncompleted improvements.
 - 2) Cash or Equivalent Security
 - a) The developer shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the Jurisdiction or in escrow with a financial institution. The use of any instrument other than cash shall be subject to approval of the Jurisdiction. The amount of deposit shall be equal to 125% (one-hundred and twenty five percent) of the entire estimated cost, as approved by the Jurisdiction, of installing all uncompleted improvements.
 - b) If cash or other instrument is deposited in escrow with a financial institution as provided above, then the developer shall file with the Jurisdiction an agreement between the financial institution and himself guaranteeing the following:
 - i) that said escrow account shall be held in trust until released by the Jurisdiction and may not be used or pledged by the developer in any other matter during the term of the escrow; and
 - ii) that in case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification by the Jurisdiction immediately pay the funds deemed necessary by the Jurisdiction to complete the improvements, up to the full balance of the escrow account, or deliver to the Jurisdiction any other instruments fully endorsed or otherwise made payable in full to the Jurisdiction.

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(B) Duration of Financial Guarantees

- 1) The duration of a financial guarantee shall be of a reasonable period to allow for completion and acceptance of improvements. In no case shall the duration of the financial guarantee for improvements exceed two (2) years.
- 2) All developments whose improvements are not completed and accepted fourteen (14) days prior to the expiration of the financial guarantee shall be considered to be in default. Said guarantee may be extended with the consent of the Jurisdiction, if such extension takes place prior to default.

(C) Default

- 1) Upon default, the surety bonding company or the financial institution holding the escrow account shall, if requested by the Jurisdiction, pay all or any portion of the bond or escrow fund to the Jurisdiction up to the amount deemed necessary by the Jurisdiction to complete the improvements. Upon payment, the Jurisdiction shall expend such funds or portion thereof to complete all or any portion of the required improvements. The Jurisdiction shall return any funds not spent in completing the improvements. Default on a project does not release the developer from liability and responsibility for completion of the improvements.
- 2) Release of Guarantee Security: The Jurisdiction may release a portion or all of any security posted as the improvements are completed and approved by the Jurisdiction.

3-10.2 Oversized Improvements

The Jurisdiction may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the Jurisdiction requires the installation of oversized improvements, the Jurisdiction shall reimburse the developer for the over sizing based on the rates set by the Jurisdiction.

Development Ordinance Article 4 (Zoning), Section 4-6 (Special Purpose Lots)

Lots for family or church cemeteries, sewer lift stations, radio, television, and communication towers, and similar utility uses. Such lots shall comply with the requirements below:

4-9.1 Minimum Size

The special-purpose lot shall be permitted only after the Technical Review Committee has determined that the proposed lot has sufficient dimensions to accommodate the intended use and, where required by this Ordinance, planting yards.

4-9.2 Access Easements

- (A) Off-site and Community Sewage Treatment: Special purpose lots for Off-site and Community Sewage Treatment Systems shall have a minimum of twenty (20) feet of direct access to a public or private street or private lane or a platted minimum twenty (20) foot access easement that provides for installation, maintenance and repair of the system from the street or lane to the lot. Easements that provide access for the supply lien only from the lot it serves to the Special Purpose Lot may be a minimum of ten (10) feet. All easements shall be labeled "Private Sanitary Sewer Easements serving lot(s) _____."
- (B) All other Special Purpose Lots: If the special-purpose lot does not have a minimum of ten (10) feet direct access to a public or private lane, an easement for ingress and egress with a minimum width of ten (10) feet shall be platted from the street or lane to the lot.

4-9.3 Platting

The subdivision to create the lot shall be approved in accordance with Article V (Subdivisions: Procedures and Standards). The Final Plat shall label the lot as a "Special-Purpose Lot for use as _____." The lots for Off-site Sewage Treatment areas shall carry the number of the lot it serves and the letter "A."

4-9.4 Conveyance

Special Purpose Lot(s) for Off-site Sewage Treatment shall be conveyed with the lot(s) for which it provides sewage treatment.

Development Ordinance Article 5 (Subdivision Procedures and Standards) Relevant Sections

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5-2 COORDINATION WITH OTHER PROCEDURES

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

5-4 APPROVAL REQUIRED

5-4.2 No Subdivision Without Approval

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

5-4.3 Dedication and Acceptance

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

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

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

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

5-6 PRELIMINARY PLAT

5-6.1 Required

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

5-6.2 Preparation

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

5-6.3 Preliminary Plat Approvals

- (A) Planninh Division: Plats shall be reviewed and may be approved after review by the Planning Director. The Planning Director may request review and approval by the Zoning Board. Any decision of the Planning Director may be appealed to the Zoning

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Town of Summerfield Development Ordinance Article X

Board within fifteen (15) days of the decision. Any decision of the Zoning Board may be appealed to the Governing Body within fifteen (15) days of the decision.

(B) Environmental Health Division: Once a subdivision plat receives preliminary plat approval; such plat shall be approved by the Environmental Health Division of the Guilford County Health Department before or the appropriate state agenda as appropriate before Final Plat approval. [Refer to Section 5-13.6 Subdivision Improvements – Utilities – Water and Sewer Connections]. The following approval procedure shall be utilized:

- 1) A health drawing or plot plan for each lot shall be submitted with every preliminary plat. Each health drawing or plot plan must contain the information required by Appendix 2 (Map Standards) and be accompanied by fee payment and a signed Improvement Permit Application.
- 2) If the lot is determined to be suitable for an on site sub-surface sewage treatment and disposal system, a certificate pursuant to Appendix A-2-3 (H) will be entered on a copy of the approved preliminary plat.
- 3) If any lot is evaluated and rated unsuitable or the property owner does not choose to have the lot(s) evaluated for an on site subsurface sewage treatment and disposal system, the lot will be crosshatched and labeled “NO Improvement PERMIT HAS BEEN ISSUED FOR THIS LOT”. Information on denied lots, or lots not evaluated will be the only information shown on the Preliminary Plat. The Environmental Health Manager will sign and date each Preliminary Plat prior to its return to the land surveyor, landscape architect, or licensed engineer for Final Plat preparation.

5-6.8 Fees

All fees shall be due and payable when the Preliminary Plat is submitted according to the Schedule of Fees.

5-7 STREET AND UTILITY CONSTRUCTION

5-7.1 Plans

Street and utility construction plans for all street, water, sanitary sewer, and storm sewer facilities shall be submitted to the Jurisdiction following Preliminary Plat approval. For each subdivision section, the street and utility construction plans shall include all improvements lying within or adjacent to that section as well as all water and sanitary sewer lines lying outside that section and being required to serve that section. A road that meets the current standards of the North Carolina Department of Transportation for paved roads shall serve all major subdivision developments.

5-7.2 No Construction Without Plan Approval

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

5-7.3 Inspection

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

5-8 PERMANENT RUNOFF CONTROL STRUCTURES AND SOIL EROSION AND SEDIMENTATION CONTROL DEVICES INSTALLATION

5-8.1 Soil Erosion and Sedimentation Control Devices

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

5-8.2 Permanent Runoff Control Structures

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

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

5-9 OWNER'S ASSOCIATIONS

5-9.1 Establishment of Owner's Association

- (A) Creation: An Owner's Association shall be established to fulfill the requirement of the North Carolina Condominium Act or to accept conveyance and maintenance of all common areas and facilities within a development containing common areas.
- (B) Conveyance: Where developments have common areas or facilities serving more than one (1) dwelling unit, these areas shall be conveyed to the Owner's Association in which all owners of lots in the development shall be members. All areas other than public street rights-of-way, other areas dedicated to the Jurisdiction, and lots shall be shown and designated as common areas. The fee-simple title of the common area shall be conveyed by the subdivider or developer to the Owner's Association.
- (C) Subdivision or Conveyance of Common Area: Common areas shall not be subsequently subdivided or conveyed by the Owner's Association, unless a revised Preliminary Plat and a revised Final Plat showing such subdivision or conveyance have been submitted and approved.
- (D) Owner's Association Not Required: Developments involving only two (2) units attached by a party wall shall not be required to have common areas or an Owner's Association. Developments with only two units attached and not having an Owner's Association shall have an agreement between owners concerning maintenance of party walls.
- (E) Open Space Residential District: All Open Space Residential District Developments must have a Homeowner's Association established in order to meet all requirements of private common areas, and to accept any offered public property that is returned to the development in accordance with Article 4-10.4 (M)3.

5-9.2 Submission of Owner's Association Declaration

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

- (A) Existence Before Any Conveyance: The Owner's Association declaration shall be organized and in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development.

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

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

5-10 FINAL PLAT

5-10.1 Approval Process

- (A) Submission: Upon approval of the Preliminary Plat and other required plans the applicant shall be eligible to submit a Final Plat for approval. Approval of the Preliminary Plat shall constitute tentative approval of the Final Plat if the Final Plat is substantially unchanged from the approved Preliminary Plat.
- (B) Environmental Health Division Review: Prior to Final Plat approval a copy of the Final Plat shall be reviewed by the Environmental Health Division. The Final Plat **mylar** and nine (9) prints shall be submitted to the Planning Division. The Environmental Health Division shall determine that no changes have occurred that affect lot suitability. Monuments must be set prior to Environmental Health review of the Final Plat. If changes have occurred that affect lot suitability, a new
- The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

health drawing or plot plan and an improvement permit application and fee for each affected lot shall be submitted and a new evaluation shall occur. Improvements Permits will be issued for approved lots recorded on the Final Plat

- (C) Substantial Change: Substantial changes from the Preliminary Plat will require an additional review by the Governing Body to insure compliance with existing regulations.

5-10.2 Preparation

The Final Plat shall be prepared by a Registered Land Surveyor in accordance with Appendix 2 (Map Standards).

5-10.3 Required Improvements

No Final Plat shall be approved until all required improvements have been installed and approved or appropriate surety is provided as set forth in Section 3-10 (Sureties or Improvement Guarantees).

5-10.4 Assurance of Completion of Improvements

Where the improvements required by this Ordinance have not been completed prior to the submission of the plat for final approval, such improvements shall be assured by the owner's filing of an approved surety bond, certified check, or irrevocable letter of credit in an amount to be determined by the Jurisdiction and for an approved period not to exceed two (2) years.

5-10.5 Certification of Final Plat

When the Enforcement Officer has approved a Final Plat, a signed written statement to this effect shall be entered on the face of the plat. The statement can be found in Appendix 2 (Map Standards).

5-10.6 Permits

Unless otherwise provided in this Ordinance, upon recordation of the Final Plat, the subdivider shall be eligible to apply for building and any other permits required by this Ordinance.

5-10.7 Fees

A fee according to the Schedule of Fees shall be due and payable when the Final Plat is submitted for approval.

5-11 RECORDATION OF FINAL PLATS

After approval, a Final Plat must be recorded in the office of the Register of Deeds within sixty (60) days. No plat shall be regarded as finally approved until such plat has been recorded. If the Final Plat of all or part of the area shown on the approved Preliminary Plat is not recorded in the Office of the Register of Deeds within two (2) years of approval of the Preliminary Plat, or if there is a lapse of more than two (2) years between the recordings of sections, the Preliminary Plat must be resubmitted. Such re-submittal shall be in accordance with the requirements of this Ordinance.

5-12 WAIVERS

5-12.1 Approval Authority

The Zoning Board or, on appeal, the Governing Body may approve waivers to standards in this Article.

5-12.2 Grounds for Waivers

The plan approval agency may waive standards in this Article under one of the following circumstances:

- (A) Physical Hardship: Where because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this Article would cause unusual and unnecessary hardship on the subdivider.

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Town of Summerfield Development Ordinance Article X

- (B) Equal or Better Performance: Where in its opinion a waiver will result in equal or better performance in furtherance of the purposes of this Ordinance.
- (C) Unintentional Error: Where through an unintentional error by the applicant, his agent, or the reviewing staff, there is a minor violation of a standard in this Article, where such violation is not prejudicial to the value or development potential of the subdivision or adjoining properties.

5-12.3 Conditions

In granting waivers, the approval authority may require such conditions as will secure, insofar as practicable, the purposes of the standards or requirements waived.

Development Ordinance Article 6 (Development Standards) Section 6-6 (Lighting Regulation)

6-6.1 Conformance with Applicable Codes and Ordinance

All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this Section, and applicable provisions of the Development Ordinance and NC Building Code. Where there is conflict between the provisions of this Section and applicable provisions of the Development Ordinance, the most restrictive shall govern.

6-6.2 Approved Materials and Methods of Installation

The provisions of this Section are not intended to prevent the use of any equipment, material or method of installation not specifically prescribed by this section provided the Zoning Board has approved the alternative. The Zoning Board may approve any such alternative provided that the proposed design provides the approximate equivalence to the specific requirements of this Section.

6-6.3 Shielding

All outdoor light fixtures including decorative luminaries except those exempted by Section 6-6.6 shall be fully shielded as identified in Section 6-6.5. A fully shielded fixture must be a full cutoff luminaire and is defined as outdoor lighting that is shielded or constructed so that all light emitted is projected below a horizontal plane which is parallel to the ground, and runs through the lowest part of the fixtures.

6-6.4 Light Trespass

The maximum illumination at five (5) feet inside an adjacent residential use or zone area or public right-of-way, or beyond, from light emitted from an artificial light source are 0.5 horizontal footcandles and 0.5 vertical footcandles. Said illumination at ten (10) feet inside an adjacent commercial or industrial use or zone area or public roadway or beyond, shall not exceed 0.5 horizontal footcandles and 0.5 vertical footcandles. No line of sight to a bulb is permitted five (5) feet or more beyond a residential or public right-of-way property line by an observer viewing from a position that is level with or higher than the ground below the fixture. Compliance is achieved with fixture shielding, directional control designed into the fixture, fixture location, fixture height, fixture aim, or a combination of these factors.

6-6.5 General Requirements for all Zoning Districts

- (A) Public or Private Recreational Facilities: Where playing fields or other recreational areas are to be illuminated, lighting fixtures shall be specified in the Lighting Plan, mounted and aimed so that the illumination falls within the primary playing area and immediate surroundings. All playing fields except baseball fields shall have full cutoff fixtures and the light sources shall not be visible from other properties.
- (B) Signage: All illuminated signs, including billboards must be lighted internally or lighted by top mounted lights pointed down. No sign may be illuminated by fixtures not shielded from upward transmission of light. Signs should be white or light-colored lettering on dark backgrounds. Lights that flash, pulse, rotate, move, or simulate motion are not permitted.
- (C) Outdoor Lighting Fixtures: All outdoor lighting fixtures, including display lighting and signs, shall be turned off after the close of business. However, fixtures nearest building entryways may remain lighted at minimum levels necessary for safety and security.
- (D) Aprons and Canopies: The lighting fixture bulbs shall be recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling so that light is restrained to no more than eighty-five (85) degrees from vertical. As an alternative to

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Town of Summerfield Development Ordinance Article X

recessed ceiling lights, indirect lighting may be used where the light is directed upward and then reflected down from the underside of the canopy. In this case, light fixtures shall be shielded so that direct illumination is focused exclusively on the underside of the canopy. The lighting for such facilities (pump islands and under canopies) shall have a maximum of fifteen (15) footcandles average maintained illumination at grade.

- (E) Parking Lots, Loading Areas, Display Areas, and Exterior Building Illumination: All Parking Lots, Loading Areas, Display Areas, and Exterior Building Illumination. This lighting requirement applies to townhouse and multi-family, educational, institutional, commercial, recreation, public, commercial business and retail, motor vehicle related, wholesaling, and limited and general industrial use categories identified within the Development Ordinance. Lighting for these areas shall not exceed an average horizontal illumination level of one (1) foot-candle at grade.
- (F) Residential Construction: For new residential construction, fixtures must be fully shielded.
- (G) Communication Tower Lighting: The nighttime use of white lighting or white strobe lighting is prohibited, unless required by the FAA.
- (H) Compliance of Existing Fixtures: All existing lighting must be brought into compliance with in five (5) years of the effective date of the Ordinance. When existing fixtures are changed or upgraded during this period, they must comply with all other Sections of this Ordinance.

6-6.6 Exemptions

- (A) Otherwise Unregulated: Lighting which is not subject to this Ordinance by state or federal law.
- (B) Specific Fixtures: Fixtures including the following, Incandescent fixtures (other than floodlights or spotlights) less than one-hundred and sixty (160) watts, natural gas or liquid propane lights, and any light source of one-thousand eight hundred (1800) lumens or less.
- (C) Security Lighting: Outdoor lighting on residential, agricultural, or commercial property that is controlled and activated by motion sensor devices for a duration of fifteen (15) minutes or less.
- (D) Flags: Lighting of the United States of America or State of North Carolina flags except that they are limited to a maximum of four-thousand (4000) lumens.
- (E) Temporary Uses: Temporary circus, fair, carnival, civic uses or Holidays.
- (F) Special Conditions: The Zoning Board may grant an exemption to the requirements of Section 6-6.4 only upon a written finding that there are conditions warranting the exemption that there are no conforming fixtures that would suffice.
- (G) Construction and Emergency Lighting: Lighting necessary for construction or emergencies is exempt from the provisions of this Section provided said lighting is temporary (one month or less) provided lighting does not create light trespass or hazardous glare.
- (H) Sports Lighting: Sports lighting is exempt from the foot-candle limitations of this ordinance on the playing field only. Glare control fixture design is required, and light trespass requirements apply.

6-6.7 Applications

Any person submitting a site plan or applying for a building, electrical or sign permit to install outdoor lighting fixtures except for single family detached residences shall as a part of said application submit evidence that the proposed work will comply with this Section. This evidence shall be in the form of a Lighting Plan and support documents prepared by an electrical engineer or lighting professional with Lighting Certified credentials. The Lighting Plan and supporting documents shall include all of the items found in Appendix 2: Map Standards.

6-6.8 Amendment to Permit for Lighting on Private Property

Should the applicant desire to substitute outdoor light fixtures or lamps to be installed on private property after a permit has been issued, the applicant shall submit all changes to the Zoning Board for approval, with adequate information to assure

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Town of Summerfield Development Ordinance Article X
compliance with this Section.

6-6.9 Appeals

Except for street lighting within the right-of-way and for temporary exemptions as provided in Section 6-6.10, any applicant's appeal of the Zoning Board's decision shall be made to the Town Council.

6-6.10 Request for Temporary Exemptions

(A) Request: Any person may submit a written request on a form prepared by the Zoning Board for a temporary exemption to the requirements of this Section.

(B) Required Information: The request for Temporary Exemption shall contain the following information:

- 1) Specific exemptions requested.
- 2) Type and use of exterior light involved.
 - 1) Duration of time for requested exemption.
 - 2) Type of lamp and calculated lumens.
 - 3) Total wattage of lamp or lamps.
 - 4) Proposed location of exterior light.
 - 5) Physical size of exterior light and type of shielding provided.
- 6) Previous temporary exemptions, if any.

(C) Additional Information: In addition to the above data, the zoning board may request any additional information that would enable a reasonable evaluation of the Request for Temporary Exemption.

(D) Appeals: The Zoning Board, within forty-five (45) days from the date of the properly completed Request for temporary Exemption, shall approve or reject in writing the Request. If rejected, the individual making the Request shall have the right to appeal to the Town Council.

Development Ordinance Articles 7, 8, and 9

ARTICLE VII

ENVIRONMENTAL REGULATIONS

7-1 WATER SUPPLY WATERSHED DISTRICTS

7-1.1 District Descriptions

Two overlay districts cover designated water supply watersheds. They are the Watershed Critical Area (WCA) and the General Watershed Area (GWA). The WCA covers the portion of the watershed adjacent to a water supply intake or reservoir. The GWA covers the rest of the watershed draining to the reservoir or intake.

7-1.2 Incorporation of Designated Water Supply Watershed Map(s)

This Section incorporates by reference the Town of Summerfield Designated Water Supply Watershed Map(s), dated January 1, 1997 as amended, showing Watershed Critical Areas, General Watershed Areas, watershed classifications, and perennial streams of the following: Reidsville (Troublesome Creek), Greensboro (Reedy Fork), High Point (East and West Fork Deep River), Jamestown (Deep River), Polecat Creek, Lower Randleman Lake (Deep River), Lake Mackintosh (Big Alamance Creek), Sandy Creek and Dan River watersheds.

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7-1.3 Applicability

(A) Coverage:

- 1) This Section 7-1 (Water Supply Watershed Districts) applies to all sites containing new development in the Watershed Critical Area or General Watershed Area, including grading, paving, gravel placement, and construction of buildings and other structures, except for the exempt activities listed in Section 7-1.3(B) below. Section 7-2 (General Watershed Area) and Section 7-3 (Watershed Critical Area) impose additional requirements specific to their overlay district.
- 2) The construction of new streets by local government shall comply with best management practices developed in response to the City of Greensboro's EPA-NPDES Stormwater Management Program which is incorporated herein by reference.
- 3) Widening of existing streets and the installation of sidewalks shall comply with the provisions of this Ordinance to the extent practicable. When determined by the Summerfield Zoning Board that the provisions of these sections cannot be met, the widening of existing streets and the installation of sidewalks shall comply with best management practices developed in response to the City of Greensboro's EPA-NPDES Stormwater Management Program which is incorporated herein by reference.

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

- 1) Construction of a single family dwelling and its accessory structures on a zone lot that was recorded prior to January 1, 1994 and is located outside WCA Tiers 1 and 2.
- 2) Replacement of existing built-upon area with a like or lesser amount of new built-upon area at the same location, or at a different location on the same zone lot if the Summerfield Zoning Board has determined that equal or improved water quality will result.
- 3) Placement of small accessory buildings or structures or small amounts of other built-upon area provided that the total additional built-upon area is no greater than four hundred (400) square feet. This exemption shall apply to an individual property for one time only after January 1, 1994.
- 4) Existing development until such time that additional new development is initiated on the site.

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

(A) Where Permitted: Where a regional water quality lake program has been established by one or more local governments, or by an authority operating on behalf of one or more local governments, and approved by the N.C. Environmental Management Commission, a development may participate in said program in lieu of any certification of runoff control required by this Article, provided that:

- 1) The development is within an area covered by a public regional water quality lake program;
- 2) Runoff from the development drains to an existing or funded public regional water quality lake which is part of said program;
- 3) Participation is in the form of contribution of funds, contribution of land, contribution of lake construction work, or a combination of these, the total value of which shall be in accordance with a fee schedule adopted by the Governing Body; and
- 4) The Summerfield Zoning Board finds that the watershed development plan is in compliance with all other applicable requirements of this Article.

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

The whole of Article X is added and approved by Town Council _____.

7-1.5 Watershed Development Plan

- (A) Plan Required: A watershed development plan in accordance with the performance standards specified in Table 7-2-3 or the requirements of Section 7-3 and with other requirements of this Article shall be submitted to the Summerfield Zoning Board and shall include all applicable information listed in Appendix 2 (Map Standards) of this Ordinance.
- (B) Plan Approval: The Summerfield Zoning Board is authorized to approve any watershed development plan which is in conformance with the performance standards specified in Table 7-2-3 or the requirements of Section 7-3 (Watershed Critical Area) whichever is applicable, and with other requirements of this Article.
- (C) Approved Plan a Prerequisite: The Summerfield Zoning Board is not authorized to issue any permits, except as provided in Section 3-4.1(D) for development on any land in a WCA or GWA unless and until a watershed development plan in compliance with the requirements of this Section has been approved.
- (D) Permanent Runoff Control Structures: When a permanent runoff control structure is required for a development to meet the requirements of this Article, a North Carolina registered professional engineer shall prepare the plan with the Engineer's Certification of Runoff Control from Table 7-1-1 affixed, signed, sealed, and dated.
- (E) Appeals: Appeals of the Enforcement Officer's decision on a watershed development plan shall be made in writing to the Zoning Board.

7-1.6 Improvements

(A) Design of Improvements

- 1) Design of improvements shall:
 - a) Be performed by a North Carolina registered professional engineer;
 - b) Be subject to approval of the Summerfield Enforcement Officer; and
 - c) Meet or exceed the guidelines in the Guilford County Water Quality Protection Manual, issued by Guilford County, January 1, 1997.
- 2) The Enforcement Officer may require, that a given runoff control structure(s) be positioned on a site such that water quality protection is improved.
- 3) The construction plans for required runoff control structures shall be approved prior to issuance of any building permit on a site. For subdivisions, construction plans shall be submitted in accordance with Section 5-7.1 (Plans).

(B) Construction of Improvements:

- 1) The construction of all improvements designed for watershed protection and shown on an approved watershed development plan shall be substantially completed prior to any plat recordation or issuance of any building certificate of occupancy (compliance).
- 2) Final approval of installed runoff control structures will be required at finalization of the grading permit or at issuance of the final building certificate of occupancy (compliance), whichever comes later. If neither a building permit nor a grading permit is required for a site, then any required runoff control structure shall be substantially completed prior to installation of any built-upon area on the site. Engineering certification of completion TABLE 7-1-2 shall be required prior to final approval by the Summerfield Zoning Board.

- (C) Recordation of Permanent Improvements: All permanent runoff control structures and associated access/maintenance easement(s) (specific or general, at the owner's option) shall be recorded on a final plat; and a mechanism to ensure their maintenance shall be established concurrent with or prior to plat recordation.

The whole of Article X is added and approved by Town Council _____.

Table 7-1-1 ENGINEER'S CERTIFICATION OF RUNOFF CONTROL

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 the (runoff from a one-half inch rainfall over the total drainage area) (runoff from a one inch rainfall over the total drainage area) and that the runoff control measures shown on this plan meet or exceed the guidelines in the Guilford County Water Quality Protection Manual issued by Guilford County, January, 1997.

SIGNATURE _____

P.E. SEAL _____

DATE _____

Table 7-1-2 ENGINEER'S CERTIFICATION OF COMPLETION

The Engineering certification required upon completion of permanent runoff control structures shall be of the following form:

ENGINEER'S CERTIFICATION OF COMPLETION

I certify that the permanent runoff control structure for (name of plat) as recorded in PB _____, PG _____ in the Office of the Guilford County Register of Deeds has been completed in conformance with the approved plans and specifications dated (approval date) .

SIGNATURE _____

P.E. SEAL _____

DATE _____

(D) Maintenance Responsibility:

- 1) When runoff control structures serve more than one lot, an owner's association or binding contract for the purpose of maintenance shall be required. See Section 5-8.2 (Permanent Runoff Control Structures).
- 2) Maintenance of runoff control structures shall be performed at such time as the designated sediment storage volume of the structure has been lost to sediment or a part of the installation is not functioning as originally designed. The Summerfield Zoning Board shall have the responsibility to inspect runoff control structures annually, to record the results on forms approved or supplied by the N. C. Division of Water Quality, and to notify the responsible property owner or owner's association when maintenance or repairs are required. All required repairs and maintenance shall be performed within ninety (90) days after such notice. In case of failure by the responsible party to perform the required maintenance or repairs within the stated period, the jurisdiction may perform such maintenance or repairs and recover all costs attendant thereto from the property owner or owner's association.

Section 3.1.7 Clustering was deleted by the Town of Summerfield Town Council on June 16, 2004.

The whole of Article X is added and approved by Town Council _____.

7-1.7 Stream Buffer Required

In the WCA and the GWA, a stream buffer with a minimum width as specified below measured landward from the normal pool elevation of impoundments and from the bank of each side of streams or rivers, shall be maintained along all perennial streams; and all perennial waters. [See Section 7-3 (Watershed Critical Area Requirements) for additional requirements concerning stream buffers in the WCA.]

- (A) Development Using Low Density Option: Thirty (30) feet.
- (B) Development Using High Density Option: One hundred (100) feet.
- (C) No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities shall minimize built-upon surface area, direct run-off away from the surface waters and maximize the utilization of stormwater Best Management Practices.

7-1.8 Stream Channelization

Perennial Streams in a WCA or GWA shall not be channelized without prior approval by the Zoning Board.

7-1.9 Activities Regulated by Other Governmental Agencies

- (A) Designated Agencies: The following are the designated agencies responsible for implementing the requirements of the Water Supply Watershed Protection Rules as adopted by the N.C. Environmental Management Commission for the specified activity:
 - 1) Agriculture - Guilford Soil and Water Conservation District
 - 2) Silviculture - N.C. Division of Forest Resources
- (B) Transportation: The North Carolina Department of Transportation shall comply with the practices outlined in its document entitled "Best Management Practices for the Protection of Surface Waters," which is incorporated by reference.
- (C) Hazardous Materials:
 - 1) The Guilford County Fire Marshall and the Greensboro Emergency Management Assistance Agency are the designated management agencies responsible for implementing the provisions of this Subsection pertaining to hazardous materials.
 - 2) An inventory of all hazardous materials used and stored in the watershed shall be maintained. A spill/failure containment plan and appropriate safeguards against contamination are required. Waste minimization and appropriate recycling of materials is encouraged.
 - 3) Properties in the WCA or GWA shall comply with the requirements of the following hazardous substances regulations if materials listed in the Superfund Amendments and Reauthorization Act (SARA) Section 302 Extremely Hazardous Substances (42 USC 11000 et seq.), or Section 311 of the Clean Water Act, as amended (CWA) (33USC 1251 et seq.; oil and hazardous substances) are stored or used on the site.

7-1.10 Modifications

- (A) General:
 - 1) Requests for watershed protection modifications shall be submitted in writing on forms supplied by the governing jurisdiction and with a completed watershed development plan showing all pertinent information relative to the site in question. Information not shown on the watershed development plan or not presented in question. Information not shown on the watershed development plan or not presented in writing shall not be considered pertinent to the modification request.
 - 2) For each request for a minor or major watershed modification, the Zoning Board shall notify all other local governments having jurisdiction within the same water supply watershed or using the affected water supply for consumption. A comment period of at least thirty (30) days shall be allowed before the Zoning Board hearing.

The whole of Article X is added and approved by Town Council _____.

- 3) In granting modifications the jurisdiction may require such conditions as will secure, insofar as practicable, the objectives of the requirements being modified.
- (B) Minor Watershed Modifications: The Governing Body is designated to approve minor watershed modifications in the General Watershed Areas (GWA) and Watershed Critical Areas (WCA). Before the Governing Body may approve a minor watershed modification, it shall make the following three findings, and shall include the factual reasons on which they are based.
1. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the watershed requirements, and all of the following conditions exist:
 - a. If the applicant complies with the provisions of the watershed requirements, the applicant can secure no reasonable return from, nor make reasonable use of the subject property. The modification granted must be the minimum possible deviation from the terms of the Ordinance that will allow the reasonable use of property.
 - b. The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardships.
 - c. The hardship is due to the physical nature of the applicant's property, such as size, shape, or topography, which is different from that of neighboring properties.
 - d. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board or Governing Body for relief.
 - e. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread.
 2. The modification is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
 3. In the granting of the modification the public safety and welfare have been assured and substantial justice has been done.

(C) Major Watershed Modifications:

- 1) The North Carolina Environmental Management Commission (EMC) is designated to approve major watershed modifications for both the GWA and the WCA. The review process shall be the same as in subsection (B) (2) above, except that the Governing Body shall make recommendations to the EMC. The Modification application, hearing notices, and minutes from each committee and board review shall be forwarded to the EMC, which shall approve or deny the modification.
- 2) Before the Governing Body may recommend to EMC an approval on a major watershed modification, it shall make the following three findings, and shall include the factual reasons on which they are based.
- 3) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the watershed requirements, and all of the following conditions exist:
 - a) If the applicant complies with the provisions of the watershed requirements, the applicant can secure no reasonable return from, nor make reasonable use of the subject property. The modification granted must be the minimum possible deviation from the terms of the Ordinance that will allow the reasonable use of property.
 - b) The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardships.
 - c) The hardship is due to the physical nature of the applicant's property, such as size, shape, or topography, which is different from that of neighboring properties.
 - d) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board of Governing body for relief.
 - e) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread.
- 4) The modification is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
- 5) In the granting of the modification the public safety and welfare have been assured and substantial justice has been done.

7-1.11 Watershed Reporting

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

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

(B) Watershed Modifications: The Watershed Administrator shall keep a record of all watershed modifications. This record shall be submitted for each calendar year to the Division of Water Quality Management on or before January 1st of the following year and shall provide a description

of each project receiving a minor or major modification and the reasons for granting the modification.

7-2 GENERAL WATERSHED AREAS (GWA)

7-2.1 General Provisions

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

(B) Minimum Lot Size: The minimum lot size for all developments not utilizing public sewer shall be sixty thousand (60,000) square feet.

(C) Performance Standards: The Watershed Development Plan for any development covered by this Section shall be prepared and submitted in accordance with the performance standards found in Table 7-2-3. The owner, developer, or person submitting the Watershed Development Plan shall indicate which performance standard they have chosen for review and approval.

Table 7-2-3

Watershed Performance Standards

Development Type	Schedule
1) Residential development with two (2) or fewer dwelling units per gross acre.	<u>Residential Score sheet</u> (Table 7-2-4. A score of one hundred (100) or more is required for passing; or <u>Engineering Certification</u> by registered professional engineer, with seal (Table 7-1-1) certifying control of the run-off from a one-half (1/2) inch rain.
2) Institutional, Commercial, Recreational, and Industrial development with twenty-four (24%) percent or less built-upon area; or Residential development with greater than two (2) dwelling units per gross acre and with twenty-four (24%) percent or less built-upon area.	<u>Institutional, Commercial, Recreational, Industrial and High Density Residential Score sheet.</u> (Table 7-2-3). A score of 100 or more is required for passing; Or <u>Engineering Certification</u> by registered professional engineer, with seal (Table 7-1-1) certifying control of the run-off from a one-half (1/2) inch rain.
3) All development with more than twenty-four (24%) percent of built-upon area. (See Note 2)	<u>Engineering Certification</u> by registered professional engineer, with seal (Table 7-1-1) certifying control of the run-off from a one-half (1/2) inch rain.

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Town of Summerfield Development Ordinance Article X

- 1) The owner, developer, or person submitting the Watershed Development Plan shall indicate which Performance Standard shall be used for review and approval.
- 2) Within a WS-III watershed, development cannot exceed fifty (50%) percent built-upon area unless it is non-residential development and has received an additional allocation option in compliance with Section 7-2.3 (B) (1).

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Table 7-2-4 Residential Score sheet

Maximum Points		Factor	Point Value	Points Earned
20	1.	Zone: Ag or RS-40	10	
		PD-R (Single Family Detached)	15	
		PD-R (Exclusively)	20	
25	2.	Built-upon Area: 0 - 3%	25	
		3 - 7%	20	
		7 - 10%	15	
		10 - 15%	10	
25	3.	Proximity to Floodway as Defined By The Federal Insurance Administration: More than 2000 feet	25	
		1000-2000 feet	20	
		500-1000 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 Rip-Rap	5	
		Dispersed Drainage or Protected Drainageways	10	
		Dispersed Drainage and Protected Drainageways	20	
		Enhanced and Protected Natural Drainageways	25	
25	6.	Slope – Low Percentage of Slope: 0-6% Average Slope of Subdivision or Lot	25	
		6-10%	20	
		10-15%	5	
25	7.	Land Cover – High Percentage of Natural and Stabilizing Vegetation	25	
		50' Stream Buffer and Natural or stabilizing vegetation on greater than 25% of the lot		
		50' Stream Buffer and Natural or stabilizing vegetation on 15 - 25% of the lot	20	
		50' Stream Buffer and Natural or stabilizing vegetation on 10 - 15% of the lot	15	
		Natural or stabilizing vegetation between units and water	10	
25	8.	Run-off 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 Service	10	
10	10.	Road and Driveway Design: with Vegetated Ditches	10	

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		With Piped Drainage and/or Curb and Gutter and Energy Dissipaters	5	
Total: 200			Total	

NOTE:

- 1) All plans must have 100 or more points and meet all other requirements to be accepted.
- 2) Do not use this table if gross density exceeds 2 dwelling units per acre or built-upon area greater than 24%.

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.

RATING SYSTEM DEFINITIONS

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 development on the best soils and terrain of the site.
2. A gravel surface is considered built-upon area.
3. Proximity to floodway is determined by measuring or scaling the distance from the floodway to the closest 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 affect 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 Drainage means carried by existing natural drainageways which have been enhanced to resist soil erosion, including stream bank degradation.

6. All slopes are before development.
7. If all or part of an existing lot containing natural or stabilizing vegetation is dedicated to the public for park and open space purposes; such land will count in computing the 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 retention or wet detention pond(s).

Moderate Runoff Control means at least seventy-five (75%) percent of built-upon area runoff must pass through permanent retention and/or wet detention pond(s).

Runoff Control in Excess of Erosion Control Ordinance means at least fifty (50%) percent of built-upon area runoff must pass through permanent retention of permanent wet detention pond(s).

Runoff Control Equal to Minimum Requirements means velocity control of runoff.

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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 sewage treatment systems.
- 10. Self-Explanatory.

Table 7-2-5

Recreational, Comm., Industrial & High Density Residential Score sheet

Institutional,

Maximum Points		Factor	Point Value	Points Earned
10	1.	Built-upon area: less than 7.5% Built – upon	10	
		7.5% - 15% Built-upon	5	
25	2.	Proximity to Floodway as Defined By The FEMA More than 2000 feet	25	
		1000-2000 feet	20	
		500 – 1000 feet	15	
		100 - 500 feet	10	
		50- 100 feet	5	
15	3.	Soils-Hydrologic Soil Group (When 50% 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	
25	5.	Preserve and Protect Natural Drainageways	20	
		Land Slope (where 50% or more of site remains undisturbed.) 0-6% Average Slope of Subdivision	25	
		6-10%	20	
25	6.	10-15%	5	
		Undisturbed Area: Greater than 50% Undisturbed	25	
		30% - 50% Undisturbed	15	
10	7.	20% - 30% Undisturbed	10	
		Permanent Erosion Control		
		Revegetating Bare Soil Areas	5	
60	8.	Revegetating and Protecting Concentrated Flow Areas	10	
		Permanent Runoff Control Strategies: Natural Infiltration of Required Runoff from: 100% of Built - upon Area	60	
		75% of Built - upon Area	45	
		50% of Built - upon Area	30	
		West Detention Pond Meeting Performance Standards Controlling Pollutants from: 100% of Built - upon Area	50	
		75% of Built - upon Area	40	

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Town of Summerfield Development Ordinance Article X

		50% of Built - upon Area	25	
		Vegetative Filter for Sites with less than 25% Built-upon Area Meeting Performance Standards	15	
10	9.	Sewage Disposal: Public Sewer Service	10	
15	10.	Road 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 Dissipaters	5	
Total: 215			Total	

NOTE:

- 1) All plans must have 100 or more points and meet all other requirements to be accepted.
- 2) Do not use this table if built-upon area exceeds twenty-four (24%) percent.

SUBMISSION REQUIREMENTS

RESIDENTIAL/COMMERCIAL/INDUSTRIAL SUBDIVISIONS: 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.

RATING SYSTEM DEFINITIONS, EXPLANATIONS 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 Guilford County Soil Survey (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 includes installation of channel liners (plastic, jute, or excelsior) where expected flow velocity (10 yr. storm) exceeds three (3) feet per second.

Rip-rap lined channels are to meet Guilford County specifications.

Preserving 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 buffer strip of twenty-five (25) feet or more on each side of the stream.

5. 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.
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 score sheet evaluation.

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Town of Summerfield Development Ordinance Article X

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.) are to be located.
8. All runoff control methods or devices shall meet or exceed Guilford County 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.

(D) Runoff Control:

- 1) When runoff control is required for development using the low density option [see definition in Section 2-1.2 (Drainage and Watershed Protection) and Table 2-1-1] the runoff control structure(s) may be any one of the following meeting the guidelines in the Guilford County Water Quality Protection Manual:
 - a) Wet Detention Ponds or other best management practice meeting the performance standards of control of the first one-half (1/2) inch of rainfall and removal of eighty-five (85%) percent total suspended solids (TSS).
 - b) Retention Pond
 - c) Natural Infiltration Area
 - d) Filter Basin
 - e) Any other technology that the Governing Body finds which may be shown to equal or exceed watershed protection standards. The Advisory Board for Environmental Quality (ABEQ) will review proposed new technology and give a recommendation to the Governing Body within sixty (60) days of submission.
- 2) When runoff control is required for development using the high density option [see definition in Section 2-2.1 (Drainage and Watershed Protection) and Table 2-1-1] the runoff control shall be by use of a wet detention pond meeting the guidelines in the Guilford County Water Quality Protection Manual.

7-2.2 GWA - Watershed Classification WS-IV

Development shall not exceed seventy 70% percent built-upon area.

7-2.3 GWA - Watershed Classification WS-III

(A) Built-Upon Area Limit: Development shall not exceed fifty (50%) percent built-upon area.

(B) Ten / Seventy (10/70) Option for Non-Residential:

- 1) Ten (10%) percent of the local jurisdiction's portion of a WS-III GWA, as delineated on July 1, 1993 may be developed with new non-residential development at up to seventy (70%) percent built-upon area.
- 2) Allocation shall be made on a first come - first served basis. When a building permit for the site is issued or the subdivision plat for a development is recorded, an allocation shall be assigned. Expiration of a building permit shall terminate the allocation under this Section.
- 3) Developments using this option shall provide an engineer's certification of runoff control for control of the runoff from a one inch (1") rain.

(C) Prohibited Uses: No new discharging landfills.

The whole of Article X is added and approved by Town Council _____.

7-3 WATERSHED CRITICAL AREAS (WCA)

7-3.1 General Provision

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

7-3.2 District Description

(A) WCA Boundary: The Guilford County Designated Water Supply Watershed Map(s) shows the defined Watershed Critical Area boundaries. The WCA boundary shall not be less than one-half (1/2) mile from the normal pool elevation and draining to existing or proposed designated reservoirs.

(B) Divisions within the Watershed Critical Area:

The WCA consists of four divisions as follows:

1) Tier 1

- a) Tier 1 consists of those lands within two hundred (200) feet of the existing or proposed normal pool elevation and those lands within one-half (1/2) mile (High Point Lake, Oak Hollow Lake, Lake Brandt) or one mile (Lake Townsend) upstream of water intake structure(s).
- b) Tier 1 areas are intended for public purpose and should remain undisturbed.

2) Tier 2

- a) Tier 2 consists of those lands lying within an area bounded by Tier 1 and a line parallel to and seven hundred and fifty (750) feet in distance from the normal pool elevation.
- b) Tier 2 areas are intended primarily for public purpose with the following exception. Tier 2 areas surrounding Randleman Lake and Lake Mackintosh are not intended for public purpose unless and until more than twenty-five (25%) percent of the WCA for the reservoir becomes urban in character, by meeting any of the tests defined in NCGS Section 160A-48(c).

3) Tier 3

- a) Tier 3 consists of those lands lying within an area bounded by Tier 2 and a line parallel to and three thousand (3000) feet from the normal pool elevation.
- b) Tier 3 areas shall not exceed the WCA Boundary.

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

7-3.3 Runoff Minimization

The density and built-upon area coverage limits defined in Table 7-3-1 shall apply within the WCA; however if the limits provided in Table 2-1-1 are more restrictive, then these standards would apply.

**Table 7-3-1
Density and Built-Upon Area Coverage Limits**

Residential Density Limits (expressed as dwelling units/gross acre)				
	Tier 1	Tier 2	Tier 3	Tier 4

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Town of Summerfield Development Ordinance Article X

No Public Sewer	N/A	1 DU/5 AC	1 DU/3 AC	1 DU/1 AC
Public Sewer	N/A	1 DU/5 AC	2 DU/1 AC	2 DU/1 AC or less than or equal to 24% built-upon area.
Built-Upon Area Coverage Limits (expressed as % maximum) (for use with high density residential, institutional, commercial, and industrial uses)				
	Tier 1	Tier 2	Tier 3	Tier 4
No Public Sewer	N/A	2.5%	4.0%	12.0%
Public Sewer	N/A	2.5%	24.0% ^a	30% ^a
<p>NOTES: ^a Built-upon area coverages may be increased by ten percent (10%) in Tier 3 and 4 of a WS-IV watershed, when the development is served by public sewer for high density residential, institutional, commercial and industrial areas, if the owner provides for on-site control of the runoff from a one (1) inch rainfall in accordance with this Ordinance.</p>				

7-3.4 Land Disturbance Minimization

- (A) Erosion Control Plan: See Section 7-4.1 (General Requirements) to determine when an erosion control plan is required.
- (B) Street Standards: Refer to Article V (Subdivision: Procedures and Standards) for the minimum street standards. To the extent practicable, the construction of new roads in the WCA should be avoided.
- (C) Protection of Fragile Areas:
 - 1) Slopes Greater than Fifteen Percent and Wetlands.
 - a) Slopes greater than fifteen (15%) percent lying adjacent and parallel to natural drainageways or streams, and wetlands shall remain in a natural and undisturbed condition except for road crossings, utilities, erosion control devices and runoff control devices.
 - b) Dedication of these areas to the local jurisdiction and the public as drainageway and open space may be required wherever authorized by Article V (Subdivision: Procedures and Standards) or any other provision in local ordinances.
 - c) Where such dedication is not required, a water quality conservation easement shall be recorded over such wetlands and slopes.
 - d) Where a water quality conservation easement serves to bring two (2) or more properties into compliance with WCA requirements, the Zoning Board may require that the wetlands and slopes covered by such easements be held as common area by an owners' association.
 - 2) Drainage
 - a) Drainage shall be provided by means of open channels.
 - b) All such areas shall have protected channels or remain in a natural and undisturbed state, except for road crossings, utilities, erosion control devices and runoff control devices.
 - c) The undisturbed area width shall be the easement width as specified in Article V (Subdivision: Procedures and Standards).
 - 3) Development on the best soils and terrain of any site is encouraged.

The whole of Article X is added and approved by Town Council _____.

7-3.5 Spill Risk Reduction

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

SIC INDUSTRY GROUP

MAJOR GROUP NUMBERS

1) Agricultural Uses

Animal Feeder/Breeder 0210

2) Agricultural Services

Chemical Treatment and Fertilizer Application for Crops, Weed Control
for Crop Operations, including Aerial Crop Dusting 0710, 0721

3) Mining Uses

Mining and Quarrying 1000

4) Business, Professional and Personal Services

Automobile Rental or leasing 7510

Automobile Repair Services, Major 0000

Automobile Repair Services, Minor 0000

Automobile Towing and Storage Services 7549

Boat Repairs 3730

Car Wash 7542

Commercial Chemical and Biological Research 8731

Furniture Stripping or Refinishing (including secondary or
accessory operations) 7641

Equipment Repair, Heavy 7690

Agricultural Equipment Repair, Boiler Cleaning and Repair,
Cesspool Cleaning, Engine Repair, except automotive, Farm Machinery
Repair, Industrial Truck Repair, Machinery Cleaning, Motorcycle Repair
Service, Rebabbitting, Repair of Service Station Equipment, Sewer
Cleaning and Rodding, Tank and Boiler Cleaning Service, Tank Truck
Cleaning Service, Tractor repair, and Welding Repair Shops

Heavy Construction Equipment Rental and Leasing 7350

Lawn Care, Lawn Fertilizing Services, Lawn Spraying Services,
Ornamental Shrub & Tree Services with Spraying 0780

Laundry or Dry cleaning Plant 7211, 7216, 7217, 7218

Laundromats, Coin-operated 7215

Pest or Termite Control Services 7342

Septic Tank Services 7699

Truck Driving Schools 8249

Truck & Utility Trailer Rental & Leasing, Light 0000

Truck Tractor & Semi Rental & Leasing, Heavy 0000

Truck Washing 7542

5) Retail Trade

Fuel Oil Sales 5980

Convenience Stores with fuel pumps 5411

Motor Vehicle Sales (new and used) 5511

Motorcycle Sales 5571

Recreational Vehicle Sales 5561

Service Stations, gasoline 5541

Truck Stops 5541

6) Wholesale Trade

Agricultural Chemicals, Pesticides, Fertilizers 5191

Chemical and Allied Products 5169

Motor Vehicles 5012

Nursery Stock, Plants Potted 5193

Paints & Varnishes 5198

Petroleum & Petroleum Products 5170

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Town of Summerfield Development Ordinance Article X

Scrap and Waste Materials 5093

7) Transportation, Warehousing, and Utilities

Air Transportation Facilities	4789
Bus Terminal and Service Facilities	4100, 4170
Hazardous & Radioactive Waste (transportation, Storage, Disposal.)	4953
Inert Debris Landfills, Major	0000
Petroleum Contaminated Soil Remediation Disposal Sites	0000
Pipelines, except Natural Gas	4600
Railroad Terminal or Yard	4010
Recycling Processing Centers	0000
Refuse & Raw Material Hauling	4212
Sanitary Sewer & Water Treatment Plant Sludge Application Sites	0000
Sewage Treatment Plants	4952
Solid Waste Disposal (nonhazardous)	4953
Trucking or Freight Terminals	4230, 4213

8) Manufacturing and Industrial Uses

Animal Slaughter or Rendering	0000 (2010)
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
Fats and Oils, Animal	2077
Fats and Oils, Plant	2070
Fish, Canned, Cured or Frozen	2091
Leather and Leather Products (tanning)	3110
Magnetic & Optical Recording Media	3695
Meat & Poultry, Packing & Processing (no rendering)	2010
Metal Coating and Engraving	3470
Paper Products (no coating or laminating)	2670
Paper Products (coating or laminating)	2670
Petroleum and Related Products	2900
Primary Metal Products & Foundries	3300
Pulp and Paper Mills	2610
Rubber & Plastics, Misc.	3000
Rubber & Plastics, Raw	3000
Salvage Yards, Auto Parts	5015
Salvage Yard, Scrap Processing	5903
Solvent Recovery	7389
Surface Active Agents	2843
Textile Products, (no Dying & Finishing)	2200
Textile Products (with Dying & Finishing)	2260

(B) Containment Structures

- 1) Storage tanks for fuels and chemicals and associated pumping and piping shall be provided a spill containment system.
- 2) Such containment systems shall be of sufficient volume to contain one hundred (100%) percent of all the tank(s) contents stored in the area and shall have a leak detection system installed.
- 3) The containment system shall be approved by the Enforcement Officer and the Fire Marshall.

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Town of Summerfield Development Ordinance Article X

4) Such tanks and containment structures shall not be placed closer than one thousand (1,000) feet to the normal pool elevation of the existing or proposed reservoir.

(C) Underground Storage Tanks: Underground storage tanks for fuels and chemicals shall not be permitted except as approved by the Governing Body.

(D) Point Source Discharges

1) No expansion of any existing private wastewater facilities or establishment of any new public or private wastewater treatment plants of any kind shall be permitted. On-site individual residential septic systems approved by the Guilford County Health Department are permitted.

2) Industrial pre-treatment facilities which prepare wastewater for discharge into a public sewer system shall be permitted in WCA districts.

7-3.6 Storm Water Management

(A) Control of Run-off: Run-off from built-upon areas, shall be controlled as follows:

1) If the built-upon area is twelve (12%) percent or less, the runoff control may be accomplished through use of a permanent infiltration area if the guidelines in the Guilford County Water Quality Protection Manual are met or runoff control from a one-half inch (1/2") rainfall over the total drainage area.

2) If the built-upon area is greater than twelve (12%) the runoff control storage volume shall not be less than the runoff from a one-inch (1") rainfall over the total drainage area flowing into the runoff control structure.

(B) Design Approval: All designs for runoff control structures shall meet the requirements of Section 7-1.6 (Improvements) and shall be subject to the approval of the Enforcement Officer.

7-4 SOIL EROSION AND SEDIMENTATION CONTROL

7-4.1 General Requirements

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

1) Exceeds one (1) acre;

2) Will take place on highly erodible soils with a "k" factor greater than .36 in a watershed critical area;

3) Includes a permanent runoff control structure in a watershed critical area; or

4) Will take place in Tier 1 or Tier 2 of a watershed critical area.

(B) Protection of Property: Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

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

7-4.2 Basic Control Objectives

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

(A) Identify Critical Areas: On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention;

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Town of Summerfield Development Ordinance Article X

- (B) Limit Time of Exposure: All land-disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time;
- (C) Limit Exposed Areas: All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time;
- (D) Control Surface Water: Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure;
- (E) Control Sedimentation: All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage; and
- (F) Manage Storm Water Runoff: When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity at the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

7-4.3 Mandatory Standards for Land-disturbing Activity

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

- (A) Buffer Zone: No land-disturbing activity shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five (25%) percent of the buffer zone nearer the land-disturbing activity, provided, that this subsection (A) shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse. Unless otherwise provided, the width of a buffer zone is measured from the edge of the water to the nearest edge of the disturbed area, with the twenty-five (25%) percent of the strip nearer the land disturbing activity containing natural or artificial means of confining visible siltation;
- (B) Graded Slopes and Fills: The angle for graded slopes and fills shall be no steeper than two (2) to one (1) slope if they are to be stabilized with vegetative cover. Slopes or fills steeper than two (2) to one (1) slope must be protected by structures. In any event, slopes left exposed will, within thirty (30) days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion;
- (C) Ground Cover: Whenever land-disturbing activity is undertaken on a tract comprising more than one (1) acre, if more than one acre is uncovered, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Except as provided in Section 7-4.4(B)5) of this Ordinance, provisions for a ground cover sufficient to restrain erosion must be accomplished within thirty (30) working days or one hundred and twenty (120) calendar days following completion, whichever period is shorter; and
- (D) Prior Plan Approval: No person shall initiate any land-disturbing activity on a tract more than one acre is to be uncovered unless, thirty (30) or more days prior to initiating the activity, an erosion and sedimentation control plan for such activity is filed with and approved by the Jurisdiction.

7-4.4 Design and Performance Standards

- (A) Design for Ten-year Storm: Except as provided in Section 7-4.4(B)2) of this Ordinance, soil erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed as to provide protection from the calculated maximum peak rate of runoff from the ten (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 (20) acres. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this subsection. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director (DEHNR).

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Town of Summerfield Development Ordinance Article X

- 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 reorganized organization or association.
- 4) Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two (2) horizontal to one (1) vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices, or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.
- 5) Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within fifteen (15) working days or sixty (60) calendar days following completion of construction or development, whichever period is shorter.

7-4.5 Storm Water Outlet Protection

- (A) Intent: Stream banks and channels downstream from any land-disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land-disturbing activity.
- (B) Performance Standard: Persons shall conduct land-disturbing activity so that the post-construction velocity of the ten (10)-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:
 - 1) The velocity established by Table 7-4-7; 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 applies 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 to the point of discharge. These may range from simple rip-rapped sections to complex structures; or
 - 4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.
- (D) Exceptions: This rule shall not apply where it can be demonstrated that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

**Table 7-4-6
Maximum Permissible Velocity for Stormwater Discharges**

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Material	Maximum Permissible Velocities	
	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.		

7-4.6 Borrow and Waste Areas

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

7-4.7 Access and Haul Roads

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

7-4.8 Operations in Lakes or Natural Watercourses

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

7-4.9 Responsibility for Maintenance

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

7-4.10 Additional Measures

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

7-4.11 Existing Uncovered Areas

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Town of Summerfield Development Ordinance Article X

- (A) Applicability: All uncovered areas existing on the effective date of this Ordinance which are the result of land-disturbing activity, which exceed one (1) acre, which are subject to continued accelerated erosion, and which are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.
- (B) Notice of Violation: The Jurisdiction will serve upon the landowner a written notice of violation by registered or certified mail, return receipt requested. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonably attainable time limits for compliance.
- (C) Requiring Erosion Control Plan: The Jurisdiction reserves the right to require preparation and approval of an erosion control plan in any instance where extensive control measures are required.
- (D) Exemption: This rule shall not require ground cover on cleared land forming the future basin of a planned reservoir.

7-4.12 Erosion and Sedimentation Control Plans

- (A) Applicability: An erosion control plan shall be prepared for all land-disturbing activities subject to this Ordinance whenever the proposed activity is to be undertaken on a tract comprising more than one (1) acre, if more than one (1) acre is to be uncovered.
- (B) Preparation of Plan: The erosion control plan shall be prepared by, and shall bear the seal and signature of a registered professional engineer, architect, landscape architect, or a registered surveyor to the extent permitted by North Carolina laws, at a scale not smaller than one (1) inch equals one hundred (100) feet. The plan shall be filed with the Jurisdiction, and the Guilford Soil and Water Conservation District, thirty (30) days prior to the commencement of the proposed activity.
- (C) Submission of Plan: Persons conducting land-disturbing activity on a tract which covers one or more acres shall file five (5) copies of the erosion control plan with the Jurisdiction, at least thirty (30) days prior to beginning of such activity, and shall keep another copy of the plan on file at the job site. If the Jurisdiction, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Jurisdiction will require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority.
- (D) Financial Responsibility Statement: Erosion control plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the owner of the land or their registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of this compliance or non-compliance with the plan, this Ordinance, or rules or orders adopted or issued pursuant to this Ordinance.
- (E) Conservation District Review: The Guilford Soil and Water Conservation District within twenty (20) days of receipt of any plan, shall review such plan and submit its comments and recommendations to the Jurisdiction. Failure of the Soil and Water Conservation District to submit its comments and recommendations within these twenty (20) days will not delay final action on the plan.
- (F) Local Jurisdiction Review: The Jurisdiction will review each plan submitted to them and within thirty (30) days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Failure to approve or disapprove a complete erosion and sedimentation control plan within thirty (30) days of receipt shall be deemed approval. Denial of a plan must specifically state in writing the reasons for denial. The jurisdiction must approve or deny a revised plan within fifteen (15) days of receipt, or it is deemed to be approved. If, following commencement of a land-disturbing activity pursuant to an approved plan, the Jurisdiction determines that the plan is inadequate to meet the requirements of this Ordinance, the Jurisdiction may require such revisions as are necessary to comply with this Ordinance.
- (G) Plan Requirements: The plan required by this Section shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract

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Town of Summerfield Development Ordinance Article X

and the measures proposed to ensure compliance with the requirements of this Ordinance. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation can be found in Appendix 2 (Map Standards) of this Ordinance.

- (H) Application Amendments: Applications for amendment of an erosion control plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the Jurisdiction, the land-disturbing activity shall not proceed except in accordance with the erosion control plan as originally approved.
- (I) Work Conducted from Approved Plan: Any person engaged in land-disturbing activity who fails to file a plan in accordance with this Ordinance, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this Ordinance.
- (J) Plan Approval Required for Permit: No building or location permits, approvals or other documents relating to land or building development or improvement shall be issued or granted under applicable zoning, building, subdivision and other laws and ordinances of the Jurisdiction, unless and until an erosion control plan, as required by this Ordinance, has been submitted to the Jurisdiction, a grading permit has been issued, and a Certificate of Erosion Control Performance has been issued by jurisdiction, indicating that initial erosion control devices have been installed and are functioning properly.
- (K) Work Completed Before Final Subdivision Approval: No final subdivision plat approval nor any Certificate of Occupancy shall be issued or granted where required under applicable zoning, building, subdivision and other laws and ordinances unless and until work at the site has been completed in accordance with a valid grading permit, or an improvement security or performance bond has been approved and accepted as required by this Ordinance.
- (L) Surety: The applicant for a grading permit to grade one (1) acre or more may be required to file with the Jurisdiction an improvement security or bond in the form of an escrow account or other instruments satisfactory to the Jurisdiction 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) North Carolina Environmental Policy Act: Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (NCGS 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. Town of Summerfield shall promptly notify the person submitting the plan that the thirty (30) day time limit for review of the plan pursuant to Section 7-4.12(F) of this Ordinance shall not begin until a complete environmental document is available for review.

7-5 FLOOD DAMAGE PREVENTION

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

7-5.1 Statutory Authorization and Legal Status Provisions

- (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 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local government the responsibility of units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.
- (B) Legal Status Provisions:
- (1) Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance: This ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted on July 1, 1999, as amended, and it is not the intention to repeal but rather re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under 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 Summerfield enacted on July 1, 1999, as amended, which are not re-enacted are repealed.
- (2) Effect upon Outstanding Floodplain Development Permits: Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.
- (3) Effective Date: This ordinance shall become effective upon date of adoption.

7-5.2 Findings of Fact

- (A) : The flood prone areas within the Jurisdiction of the Town of Summerfield 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 for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

These flood losses are caused by the cumulative effect of obstructions in flood plains causing increases in flood heights and velocities and by the occupancy in flood hazard areas of uses vulnerable to floods or other hazards.

7-5.3 General Provisions

- (A) Lands to Which this Ordinance Applies: This Ordinance shall apply to all Special Flood Hazard Areas within the Town of Summerfield. Bona fide farms are not exempt from the provisions of this Ordinance regulating development in floodways and floodplains as required for participation in the National Flood Insurance Program.
- (B) Basis for Establishing the Special Flood Hazard Areas: The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and the Federal Emergency Management Agency in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Guilford County dated June 18, 2007, which are adopted by reference and declared to be a part of this ordinance..

7-5.4 Establishment of Floodplain Development Permit

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

7-5.5 Compliance

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

7-5.6 Warning and Disclaimer of Liability

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Town of Summerfield Development Ordinance Article X

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Summerfield 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.

7-5.7 Flood Plain Development Application, Permit and Certification Requirements

- (A) Application for Permit: On a property containing an area of special flood hazard, application for a Flood Plain Development Permit shall be made in accordance with Section 3-3.5 (Flood Plain Development Permit).
- (B) Certificate of Floor Elevation/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 3-8.4 (Certificate of Floor Elevation/Flood-proofing).

7-5.8 Provisions for Flood Hazard Reduction

- (A) General Standards: In all Special Flood Hazard Areas the following provisions are required:
- 1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure;
 - 2) All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
 - 3) All new construction or 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. **Underground Storage tanks are not allowed. Above ground fuel storage tanks, as defined herein, must meet the regulatory flood protection elevation as defined in Section 2-1.6 of this ordinance.**
 - 5) All new or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - 6) New or replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters 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; and
 - 8) Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this Article, shall meet the requirement of "new construction" as contained in this ordinance.
 - 9) Nothing in this ordinance shall prevent 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.
 - 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.

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Town of Summerfield Development Ordinance Article X

- 14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- 15) Permitted Uses: The following uses shall be permitted below flood protection elevation within the floodway fringe zone to the extent that they are otherwise permitted by this ordinance.
 - a) Any use as permitted and regulated in the floodway zone.
 - b) Fill material graded to drain, provided such is protected against erosion. Any fill material on which a structure is to be located shall be extended at grade ten (10) feet beyond the limits of the structure foundation, and shall have a side slope no steeper than two (2) feet horizontal to one (1) foot vertical.

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

- 1) Residential Construction: New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in **Section 2-1.6** of this ordinance.
- 2) Non-Residential Construction: New construction or substantial improvement of any commercial, industrial, or non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation as defined in **Section 2-1.6** of this ordinance. Structures located in A, AE, and A1-30 Zones may be flood-proofed 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 wall substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in **Section 3-8.4**, along with the operational and maintenance plans.
- 3) Manufactured Housing
 - a) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in **Section 2-1.6** of this ordinance.
 - b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally when the required elevation will be met by elevating the chassis at least thirty-six (36) inches above 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, engineering certification is required.
 - c) All enclosures or skirting below the lowest floor shall meet the requirements of **Section 7-5.8 (B)(4)(a),(b), and (c)**.
 - d) An evacuation plan shall be prepared for evacuation of all residents of all new, substantially improved, or substantially damaged manufactured dwelling 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 in walls be 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 openings on different sides of each enclosed area subject to flooding.

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

- ii) the total net area of all flood openings must be at least one (1) square inch for every 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 openings shall be no higher than one (1) foot above the adjacent grade;
- v) Flood openings may be equipped with screens, louvers, valves, 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 not considered an enclosure and requires flood openings outlined above.

5) Additions/Improvements

- a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure
 - ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - i) Not a substantial improvement, the addition and/or improvements must only comply with the standards for new construction.
 - ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- d) Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

6) Recreational Vehicles. Recreational vehicles shall either:

- a) Be on site for fewer than 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 own 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 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 the 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;

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Town of Summerfield Development Ordinance Article X

- e) Accessory Structures shall be firmly anchored in accordance with Section **7-5.8 (A) (1)**;
- f) All service facilities such as electrical shall be installed in accordance with Section 7-5.8 (A) (4); and
- g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Section 7-5.8(B)(4)(c).

An accessory structure with a footprint of less than 150 square feet that satisfies the criteria outlined above does not require an elevation or flood-proofing certificate. Elevation or flood-proofing certifications are required for all other accessory structures in accordance with Section **3-8.4**.

7-5.9 Standards for Floodplains without Established Base Flood Elevations

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

No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from the top of the 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 flood-proofed in accordance with the standards in Section **9-7.3 (11 & 12)**.

2) All subdivisions, 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 BFE data shall be adopted by reference per Section **7-5.3(B)** to be utilized in implementing this ordinance.

3) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in **Section 2-1.6**.

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

Along rivers and streams where BFE data is provided by 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 apply to all development within such areas:

- (A) Standards outlined in Sections **7-5.8 (A) and (B)**; and

(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

7-5.11 Floodways and Non-Encroachment Areas

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in **Section 7-5.3(B)**. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 7-5.8 (A) and (B) shall apply to all development within such areas:

(A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated that:

1) the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit, or

The whole of Article X is added and approved by Town Council _____.

2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(B) If Section 7-5.11 (A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

(C) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

- 1) The anchoring and the elevation standards of Section 7-5.8(B) (3); and
- 2) The no encroachment standard of Section 7-5.11 (A).

(D) Permitted Uses: The following uses shall be permitted within the Floodway Zone to the extent that they are otherwise permitted by this Ordinance and provided that they do not employ structures or fill except as specified herein:

1) General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, quarrying, wildlife and related uses;

2) Ground level loading areas, ground level automobile parking areas, rotary aircraft ports and other similar industrial and commercial uses;

3) Tractor-trailer parking, provided that no trailers are detached from tractors;

4) Lawns, gardens, play areas, and other similar uses;

5) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, swimming pools, hiking or horseback riding trails, open space and other similar private and public recreational uses;

6) Streets, bridges, utility lines, storm drainage facilities, sewage or waste treatment facilities, water supply facilities, and other similar public or private utility uses, but only if the proposed activity combined with the allowable encroachment of the floodway fringe and with any previously placed approved encroachment in the floodway complies with the provisions of Section 7-5.11(A);

7) Temporary facilities such as displays, circuses, carnivals, or similar transient amusement enterprises;

8) Boat docks, ramps, piers, or similar structures;

9) Grading, as it complies with the provisions of Section 7-5.11(A); and

10) Cantilevered portions of structures, provided that foundation and supports are located outside the floodway zone and the underside of the cantilevered portion is at least two (2) feet above base flood elevation.

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

7.6 RIPARIAN BUFFER PROTECTION FOR LANDS WITHIN THE JORDAN WATERSHED

7-6.1. Authority

This Ordinance is adopted pursuant to the authority vested in the Town of Summerfield by the Session Laws and the General Statutes of North Carolina, particularly Session Law 2009-216 (House Bill 239), Session Law 2009-484 (Senate Bill 838), N.C. Gen. Stat §153A-121, 153A-140, Chapter 153A, Article 18, N.C. Gen. Stat §160A-174, 160A-193, Chapter 160A, Article 19, and any special legislation enacted by the General Assembly for Town of Summerfield.

7-6.2. Purpose and Intent

The purposes of the Town of Summerfield in adopting the following Ordinance is to protect and preserve existing riparian buffers throughout the Jordan Watershed as generally described in Rule 15A NCAC 02B .0262 (Jordan Water Supply Nutrient Strategy: Purpose and Scope), in order to maintain their nutrient removal and stream protection functions.

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

Additionally this Ordinance will help protect the water supply uses of Jordan Reservoir and of designated water supplies throughout the Jordan watershed.

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

7-6.3. Title

This Ordinance shall be known as the *Town of Summerfield Riparian Buffer Protection Ordinance for Lands within the Jordan Watershed*.

7-6.4. Jurisdiction

This Ordinance shall be applied to all land in the planning jurisdiction of Town of Summerfield that is located within the Jordan Reservoir Watershed. Some areas in the Town of Summerfield also fall within the General Watershed Area of the City of Greensboro, North Carolina where additional rules apply.

7-6.5. Applicability

This Ordinance applies to all landowners and other persons conducting activities in the area described in 7-6.4, with the exception of activities conducted under the authority of the State, the United States, multiple jurisdictions, or local units of government. Forest harvesting and agricultural activities are also exempt. The NC Division of Water Quality shall administer the requirements of Rule 15A NCAC 02B .0267 and .0268 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers and Mitigation of Existing Riparian Buffers, respectively) for these activities.

7-6.6. Relation to Other Ordinances

The requirements of this Ordinance shall supersede all locally implemented buffer requirements stated in Rules 15A NCAC 02B .0214 through .0216 as applied to WS-II, WS-III, and WS-IV waters in the Jordan watershed. If the provisions of this ordinance otherwise conflict with the provisions of any other validly enforceable ordinance(s) or laws, the most stringent provisions shall control. This Ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, or other provision of law.

7-6.7. Riparian Area Protection within the Jordan Reservoir Watershed

A. Buffers Protected

The following minimum criteria shall be used for identifying regulated buffers:

1. This Ordinance shall apply to activities conducted within, or outside of with hydrologic impacts in violation of the diffuse flow requirements set out in 7-6.7(E) upon, 50-foot wide riparian buffers directly adjacent to surface waters in the Jordan watershed (intermittent streams, perennial streams, lakes, reservoirs and ponds), excluding wetlands.
2. Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the riparian buffer but are regulated pursuant to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.
3. For the purpose of this Ordinance, only one of the following types of maps shall be used for purposes of identifying a water body subject to the requirements of this ordinance:
 - a. The most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture.
 - b. The most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS).
 - c. A map approved by the Geographic Information Coordinating Council and by the NC Environmental Management Commission. Prior to approving a map under this Item, the Commission shall provide a 30-day public notice and opportunity for comment. Alternative maps approved by the Commission shall not be used for buffer delineation on projects that are existing and ongoing within the meaning of 7-6.7(C) of this Ordinance.
4. Where the specific origination point of a stream regulated under this Item is in question, upon request of the NC Division of Water Quality or another party, the Town of Summerfield shall make an on-site determination. A Town of Summerfield representative who has successfully completed the Division's *Surface Water Identification Training Certification* course, its successor, or other equivalent training curriculum approved by the Division, shall establish that point using the latest version of the Division publication, *Identification Methods for the Origins of Intermittent and Perennial Streams*, available at http://h2o.enr.state.nc.us/ncwetlands/documents/NC_Stream_ID_Manual.pdf or from the NC Division of Water Quality - 401 Oversight Express Permitting Unit, or its successor. The Town of Summerfield may accept the results of a site assessment made by another party who meets these

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Town of Summerfield Development Ordinance Article X

criteria. Any disputes over on-site determinations made according to this Item shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. The Director's determination is subject to review as provided in Articles 3 and 4 of G.S. 150B.

5. Riparian buffers protected by this Ordinance shall be measured pursuant to 7-6.7(D) of this Ordinance.
6. Parties subject to this Ordinance shall abide by all State rules and laws regarding waters of the state including but not limited to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.
7. No new clearing, grading, or development shall take place nor shall any new building permits be issued in violation of this Ordinance.

B. Exemption Based on On-site Determination

When a landowner or other affected party including the Division believes that the maps have inaccurately depicted surface waters, he or she shall consult the Town of Summerfield. Upon request, a Town of Summerfield representative who has successfully completed the Division of Water Quality's *Surface Water Identification Training Certification* course, its successor, or other equivalent training curriculum approved by the Division, shall make an on-site determination. The Town of Summerfield may also accept the results of site assessments made by other parties who have successfully completed such training. Any disputes over on-site determinations shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. A determination of the Director as to the accuracy or application of the maps is subject to review as provided in Articles 3 and 4 of G.S. 150B. Surface waters that appear on the maps shall not be subject to these buffer requirements if a site evaluation reveals any of the following cases:

1. Man-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100, including ponds and lakes created for animal watering, irrigation, or other agricultural uses. (A pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.)
2. Ephemeral streams.
3. The absence on the ground of a corresponding intermittent or perennial stream, lake, reservoir, or pond.
4. Ditches or other man-made water conveyances, other than modified natural streams.

C. Exemption when Existing Uses are Present and Ongoing

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

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

D. Zones of the Riparian Buffer

The protected riparian buffer shall have two zones as follows:

1. Zone One shall consist of a vegetated area that is undisturbed except for uses provided for in the Table of Uses, 7-6.8(B) of this Ordinance. The location of Zone One shall be as follows:

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

- a. For intermittent and perennial streams, Zone One shall begin at the top of the bank and extend landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to a vertical line marking the top of the bank.
- b. For ponds, lakes and reservoirs located within a natural drainage way, Zone One shall begin at the normal water level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to a vertical line marking the normal water level.
2. Zone Two shall consist of a stable, vegetated area that is undisturbed except for uses provided for in the Table of Uses, 7-6.8(B) of this Ordinance. Grading and revegetating in Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised. Zone Two shall begin at the outer edge of Zone One and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones One and Two shall be 50 feet on all sides of the surface water.

E. Diffuse Flow Requirements

Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow prior to its entry into the buffer and reestablishing vegetation as follows:

1. Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters Zone Two of the riparian buffer;
2. Periodic corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies; and
3. As set out in 7-6.7(D) and 7-6.8(B) of this Ordinance, The Zones of the Riparian Buffer and Table of Uses respectively, no new stormwater conveyances are allowed through the buffers except for those specified in the Table of Uses, 7-6.8(B) of this Ordinance, addressing stormwater management ponds, drainage ditches, roadside ditches, and stormwater conveyances.

7-6.8. Potential Uses and Associated Requirements

A. Approval for New Development

Town of Summerfield shall issue an approval for new development only if the development application proposes to avoid impacts to riparian buffers defined in 7-6.7(A) of this Ordinance, or where the application proposes to impact such buffers, it demonstrates that the applicant has done the following, as applicable:

1. Determined the activity is exempt from requirements of this Ordinance;
2. Received an Authorization Certificate from the Town of Summerfield pursuant to Section 7-6.9.A of this Ordinance;
3. For uses designated as Allowable with Mitigation in the Table of Uses in 7-6.8(B), received approval of mitigation plan pursuant to 7-6.9(C) of this Ordinance; and
4. Received a variance pursuant to 7-6.9(B).

B. Table of Uses

The following chart sets out potential new uses within the buffer, or outside the buffer with impacts on the buffer, and categorizes them as exempt, allowable, or allowable with mitigation. All uses not categorized as exempt, allowable, or allowable with mitigation are considered prohibited and may not proceed within the riparian buffer or outside the buffer if the use would impact the buffer, unless a variance is granted pursuant to 7-6.9(C) of this Ordinance, Variances. The requirements for each category are given in 7-6.8(C) of this Section following the Table of Uses.

Town of Summerfield Development Ordinance Article X

Table 7-6-1 Table of Uses

Use	E x e m p t *	Allo wab le*	Allo wab le with Miti gati on*
<p>Access trails: Pedestrian access trails leading to the surface water, docks, fishing piers, boat ramps and other water dependent activities:</p> <ul style="list-style-type: none"> • Pedestrian access trails that are restricted to the minimum width practicable and do not exceed 4 feet in width of buffer disturbance, and provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the riparian buffer • Pedestrian access trails that exceed 4 feet in width of buffer disturbance, the installation or use results in removal of trees as defined in this Ordinance or impervious surface is added to the riparian buffer 	X	X	
<p>Airport facilities:</p> <ul style="list-style-type: none"> • Airport facilities that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer • Airport facilities that impact greater than 150 linear feet or one-third of an acre of riparian buffer • Activities necessary to comply with FAA requirements (e.g. radar uses or landing strips)¹ 		X	X
Archaeological activities	X		
Bridges		X	
Canoe Access provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the buffer.	X		

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

Use	E x e m p t *	Allo wab le*	Allo wab le with Miti gati on*
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* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in 7-6.8(C) of this Ordinance.

<p>Dam maintenance activities:</p> <ul style="list-style-type: none"> • Dam maintenance activities that do not cause additional buffer disturbance beyond the footprint of the existing dam or those covered under the U.S. Army Corps of Engineers Nationwide Permit No. 3 • Dam maintenance activities that do cause additional buffer disturbance beyond the footprint of the existing dam or those not covered under the U.S. Army Corps of Engineers Nationwide Permit No.3 	X	X	
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* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in 7-6.8(C) of this Ordinance.

Town of Summerfield Development Ordinance Article X

Use	E x e m p t *	A l l o w a b l e*	A l l o w a b l e w i t h M i t i g a t i o n*
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* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in 7-6.8(C) of this Ordinance.

Drainage of a pond in a natural drainage way provided that a new riparian buffer that meets the requirements of Items (7) and (8) of this Rule is established adjacent to the new channel	X		
Driveway crossings of streams and other surface waters subject to this Ordinance: <ul style="list-style-type: none"> • Driveway crossings on single family residential lots that disturb equal to or less than 25 linear feet or 2,500 square feet of riparian buffer • Driveway crossings on single family residential lots that disturb greater than 25 linear feet or 2,500 square feet of riparian buffer • In a subdivision that cumulatively disturb equal to or less than 150 linear feet or one-third of an acre of riparian buffer In a subdivision that cumulatively disturb greater than 150 linear feet or one-third of an acre of riparian buffer	X	X	X
Driveway impacts other than crossing of a stream or other surface waters subject to this Ordinance			X

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

Use	E x e m p t *	Allo wab le*	Allo wab le with Miti gati on*
Fences: <ul style="list-style-type: none"> • Fences provided that disturbance is minimized and installation does not result in removal of trees as defined in this Ordinance • Fences provided that disturbance is minimized and installation results in removal of trees as defined in this Ordinance 	X	X	
Fertilizer application: one-time application to establish vegetation	X		
Grading and revegetation in Zone Two provided that diffuse flow and the health of existing vegetation in Zone One is not compromised and disturbed areas are stabilized until they are revegetated.	X		

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in 7-6.8(C) of this Ordinance.

Greenway / hiking trails designed, constructed and maintained to maximize nutrient removal and erosion protection, minimize adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practical.		X	
Historic preservation	X		
Maintenance access on modified natural streams: a grassed travel way on one side of the water body when less impacting alternatives are not practical. The width and specifications of the travel way shall be only that needed for equipment access and operation. The travel way shall be located to maximize stream shading.		X	

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

Use	E x e m p t *	A l l o w a b l e*	A l l o w a b l e w i t h M i t i g a t i o n*
<p>Mining activities:</p> <ul style="list-style-type: none"> • Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of 7-6.7(D) and 7-6.7(E) of this Ordinance are established adjacent to the relocated channels • Mining activities that are not covered by the Mining Act OR where new riparian buffers that meet the requirements of 7-6.7(D) and 7-6.7(E) of this Ordinance are not established adjacent to the relocated channels • Wastewater or mining dewatering wells with approved NPDES permit 	<p>X</p>	<p>X</p>	<p>X</p>
<p>Playground equipment:</p> <ul style="list-style-type: none"> • Playground equipment on single family lots provided that installation and use does not result in removal of vegetation • Playground equipment installed on lands other than single-family lots or that requires removal of vegetation 	<p>X</p>	<p>X</p>	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in 7-6.8(C) of this Ordinance.

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

Use	E x e m p t *	Allo wab le*	Allo wab le with Miti gati on*
Ponds created by impounding streams and not used as stormwater BMPs: <ul style="list-style-type: none"> • New ponds provided that a riparian buffer that meets the requirements of 7-6.7(D) and 7-6.7(E) of this Ordinance is established adjacent to the pond • New ponds where a riparian buffer that meets the requirements of 7-6.7(D) and 7-6.7(E) of this Ordinance is NOT established adjacent to the pond 		X	X
Protection of existing structures, facilities and stream banks when this requires additional disturbance of the riparian buffer or the stream channel		X	
Railroad impacts other than crossings of streams and other surface waters subject to this Ordinance.			X
Railroad crossings of streams and other surface waters subject to this Ordinance: <ul style="list-style-type: none"> • Railroad crossings that impact equal to or less than 40 linear feet of riparian buffer • Railroad crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer • Railroad crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer 	X	X	X

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in 7-6.8(C) of this Ordinance.

The whole of Article X is added and approved by Town Council _____.

Use	E x e m p t *	Allo wab le*	Allo wab le with Miti gati on*
<p>Recreational and accessory structures in Zone Two:</p> <ul style="list-style-type: none"> • Sheds and gazebos in Zone Two, provided they are not prohibited under local water supply ordinance: <ul style="list-style-type: none"> ○ Total footprint less than or equal to 150 square feet per lot. ○ Total footprint greater than 150 square feet per lot. • Wooden slatted decks and associated steps, provided the use meets the requirements of 7-6.7(D) and 7-6.7(E) of this Ordinance: <ul style="list-style-type: none"> ○ Deck at least eight feet in height and no vegetation removed from Zone One. ○ Deck less than eight feet in height or vegetation removed from Zone One. 		<p style="text-align: center;">X</p> <p style="text-align: center;">X</p>	<p style="text-align: center;">X</p> <p style="text-align: center;">X</p>
Removal of previous fill or debris provided that diffuse flow is maintained and vegetation is restored	X		
Road impacts other than crossings of streams and other surface waters subject to this Ordinance			X
<p>Road crossings of streams and other surface waters subject to this Ordinance:</p> <ul style="list-style-type: none"> • Road crossings that impact equal to or less than 40 linear feet of riparian buffer • Road crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer • Road crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer 	X	X	X

Town of Summerfield Development Ordinance Article X

Use	E x e m p t *	A l l o w a b l e *	A l l o w a b l e w i t h M i t i g a t i o n *
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- To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in 7-6.8(C) of this Ordinance

Road relocation: Relocation of existing private access roads associated with public road projects where necessary for public safety: <ul style="list-style-type: none"> • Less than or equal to 2,500 square feet of buffer impact • Greater than 2,500 square feet of buffer impact 		X	X
Stormwater BMPs: <ul style="list-style-type: none"> • Wet detention, bioretention, and constructed wetlands in Zone Two if diffuse flow of discharge is provided into Zone One • Wet detention, bioretention, and constructed wetlands in Zone One 		X	X
Scientific studies and stream gauging	X		
Streambank or shoreline stabilization		X	

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

Use	E x e m p t *	Allo wab le*	Allo wab le with Miti gati on*
<p>Temporary roads, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation: At the end of five years the restored buffer shall comply with the restoration criteria in 7-6.9(C)(7) of this Ordinance:</p> <ul style="list-style-type: none"> • Less than or equal to 2,500 square feet of buffer disturbance • Greater than 2,500 square feet of buffer disturbance • Associated with culvert installation or bridge construction or replacement. 	X	X X	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in 7-6.8(C) of this Ordinance.

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

Use	E x e m p t *	Allo wab le*	Allo wab le with Miti gati on*
Utility, electric, aerial, perpendicular crossings of streams and other surface waters subject to this Ordinance ^{2,3,5} : <ul style="list-style-type: none"> • Disturb equal to or less than 150 linear feet of riparian buffer • Disturb greater than 150 linear feet of riparian buffer 	X	X	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in 7-6.8(C) of this Ordinance.

Utility, electric, aerial, other than perpendicular crossings ⁵ : <ul style="list-style-type: none"> •Impacts in Zone Two •Impacts in Zone One^{2,3} 		X	X
Utility, electric, underground, perpendicular crossings ^{3,4,5} : <ul style="list-style-type: none"> •Disturb less than or equal to 40 linear feet of riparian buffer •Disturb greater than 40 linear feet of riparian buffer 	X	X	
Utility, electric, underground, other than perpendicular crossings ⁴ : <ul style="list-style-type: none"> • Impacts in Zone Two • Impacts in Zone One¹ 	X X		

The whole of Article X is added and approved by Town Council _____.

Use	Exe m pt *	Allo wab le*	Allo wab le with Miti gati on*
<p>Vegetation management:</p> <ul style="list-style-type: none"> • Emergency fire control measures provided that topography is restored • Mowing or harvesting of plant products in Zone Two • Planting vegetation to enhance the riparian buffer • Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised • Removal of individual trees that are in danger of causing damage to dwellings, other structures or human life, or are imminently endangering stability of the streambank. • Removal of individual trees which are dead, diseased or damaged. • Removal of poison ivy • Removal of invasive exotic vegetation as defined in: <i>Smith, Cherri L. 1998. Exotic Plant Guidelines. Dept. of Environment and Natural Resources. Division of Parks and Recreation. Raleigh, NC. Guideline #30</i> 	<p>X</p> <p>X</p> <p>X</p> <p>X</p> <p>X</p> <p>X</p> <p>X</p>		
<ul style="list-style-type: none"> • Vehicular access roads leading to water-dependent structures as defined in 15A NCAC 02B .0202, provided they do not cross the surface water and have minimum practicable width not exceeding ten feet. 		X	
<ul style="list-style-type: none"> • Water dependent structures as defined in 15A NCAC 02B .0202 where installation and use result in disturbance to riparian buffers. 		X	

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

Use	E x e m p t *	Allo wab le*	Allo wab le with Miti gati on*
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* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in 7-6.8(C) of this Ordinance.

<p>Water supply reservoirs:</p> <ul style="list-style-type: none"> • New reservoirs where a riparian buffer that meets the requirements of 7-6.7(D) and 7-6.7(E) of this Ordinance is established adjacent to the reservoir • New reservoirs where a riparian buffer that meets the requirements of 7-6.7(D) and 7-6.7(E) of this Ordinance is not established adjacent to the reservoir 		X	X
<p>Water wells</p> <ul style="list-style-type: none"> • Single family residential water wells • All other water wells 	X	X	
<p>Wetland, stream and buffer restoration that results in impacts to the riparian buffers:</p> <ul style="list-style-type: none"> • Wetland, stream and buffer restoration that requires NC Division of Water Quality approval for the use of a 401 Water Quality Certification • Wetland, stream and buffer restoration that does not require Division of Water Quality approval for the use of a 401 Water Quality Certification 	X	X	
Wildlife passage structures		X	

¹Provided that:

- No heavy equipment is used in Zone One.
- Vegetation in undisturbed portions of the buffer is not compromised.
- Felled trees are removed by chain.
- No permanent felling of trees occurs in protected buffers or streams.
- Stumps are removed only by grinding.
- At the completion of the project the disturbed area is stabilized with native vegetation.
- Zones one and two meet the requirements of 7-6.7(D) and 7-6.7(E)

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

²Provided that, in Zone One, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternative evaluation by the Town of Summerfield, as defined in 7-6.9(A).

- A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut.
- Riprap shall not be used unless it is necessary to stabilize a tower.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

³Provided that poles or aerial infrastructure shall not be installed within 10 feet of a water body unless Town of Summerfield completes a no practical alternative evaluation as defined in 7-6.9(A).

⁴Provided that, in Zone One, all of the following BMPs for underground utility lines are used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternative evaluation by Town of Summerfield, as defined in 7-6.9(A).

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

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

C. Requirements for Categories of Uses

Uses designated in 7-6.8(B) of this Section as exempt, allowable, and allowable with mitigation within a riparian buffer shall have the following requirements:

1. Exempt.

Uses designated as exempt are permissible without authorization by Town of Summerfield provided that they adhere to the limitations of the activity as defined in 7-6.8(B) of this Section, the Table of Uses. In addition, exempt uses shall be designed, constructed and maintained to minimize soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities.

2. Allowable.

Uses designated as allowable may proceed provided that there are no practical alternatives to the requested use pursuant to 7-6.9(A) of this Section. This includes construction, monitoring, and maintenance activities. These uses require written authorization from the Town of Summerfield.

3. Allowable with Mitigation.

Uses designated as allowable with mitigation may proceed provided that there are no practical alternatives to the requested use pursuant to 7-6.9(A) of this Section and an appropriate mitigation strategy has been approved pursuant to 7-6.9(C). These uses require written authorization from the Town of Summerfield.

7-6.9. Permits Procedures, Requirements, and Approvals

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

A. Determination of No Practical Alternatives / Request for Authorization Certificate

1. Persons who wish to undertake uses designated as allowable or allowable with mitigation shall submit a request for a “no practical alternatives” determination to the Town of Summerfield. The applicant shall certify that the project meets all the following criteria for finding “no practical alternatives”:
 - a. The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality;
 - b. The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality; and
 - c. Best management practices shall be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.
2. The applicant shall also submit at least the following information in support of their assertion of “no practical alternatives”:
 - a. The name, address and phone number of the applicant;
 - b. The nature of the activity to be conducted by the applicant;
 - c. The location of the activity, including the jurisdiction;
 - d. A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;
 - e. An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality; and
 - f. Plans for any best management practices proposed to be used to control the impacts associated with the activity.
3. Within 60 days of a submission that addresses 7-6.9(A)(2) , the Town of Summerfield shall review the entire project and make a finding of fact as to whether the criteria in 7-6.9(A)(1) of this Section have been met. A finding of “no practical alternatives” shall result in issuance of an Authorization Certificate. Failure to act within 60 days shall be construed as a finding of “no practical alternatives” and an Authorization Certificate shall be issued to the applicant unless one of the following occurs:
 - a. The applicant agrees, in writing, to a longer period;
 - b. The Town of Summerfield determines that the applicant has failed to furnish requested information necessary to the Town of Summerfield decision;
 - c. The final decision is to be made pursuant to a public hearing; or
 - d. The applicant refuses access to its records or premises for the purpose of gathering information necessary to the Town of Summerfield’s decision.
4. The Town of Summerfield may attach conditions to the Authorization Certificate that support the purpose, spirit and intent of this Ordinance.
5. Any appeals of determinations regarding Authorization Certificates shall be referred to the Director of the Division of Water Quality, c/o the 401 Oversight Express Permitting Unit, or its successor. The Director’s decision is subject to review as provided in G.S. 150B Articles 3 and 4.

B. Variances

1. Requirements for Variances.

Persons who wish to undertake prohibited uses may pursue a variance. The Town of Summerfield may grant minor variances. For major variances, the Town of Summerfield shall prepare preliminary findings and submit them to the Division of Water Quality, 401 Oversight Express Permitting Unit, or its successor for approval by the Environmental Management Commission. The variance request procedure shall be as follows:

- a. For any variance request, the Town of Summerfield shall make a finding of fact as to whether there are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements. A finding of practical difficulties or unnecessary hardships shall require that the following conditions are met:
 - i. If the applicant complies with the provisions of this Ordinance, he/she can secure no reasonable return from, nor make reasonable use of, his/her property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the Town of Summerfield shall consider whether the variance is the minimum possible deviation from the terms of this Ordinance that shall make reasonable use of the property possible;
 - ii. The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

- iii. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this ordinance would not allow reasonable use of the property;
 - iv. The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;
 - v. The applicant did not purchase the property after the effective date of this Ordinance, and then request a variance; and
 - vi. The hardship is rare or unique to the applicant's property.
- b. The variance is in harmony with the general purpose and intent of the State's riparian buffer protection requirements and this Ordinance and preserves its spirit; and
 - c. In granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

2. Minor Variances

A minor variance request pertains to activities that will impact only Zone Two of the riparian buffer. Minor variance requests shall be reviewed and approved based on the criteria in Section 9(B)(1) by the Town of Summerfield pursuant to G.S. 153A-Article 18, or G.S. 160A-Article 19. The Town of Summerfield may attach conditions to the variance approval that support the purpose, spirit and intent of the riparian buffer protection program. Request for appeals to decisions made by the Town of Summerfield shall be made in writing to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in G.S. 150B Articles 3 and 4.

3. Major Variances

A major variance request pertains to activities that will impact any portion of Zone One or any portion of both Zones One and Two of the riparian buffer. If the Town of Summerfield has determined that a major variance request meets the requirements in 7-6.9(B)(1), then it shall prepare a preliminary finding and submit it to the NC Environmental Management Commission c/o the Division of Water Quality, 401 Oversight Express Permitting Unit, or its successor, for approval. Within 90 days after receipt by Town of Summerfield, the Commission shall review preliminary findings on major variance requests and take one of the following actions: approve, approve with conditions and stipulations, or deny the request. Appeals from a Commission decision on a major variance request are made on judicial review to Superior Court.

C. Mitigation

1. This item shall apply to persons who wish to impact a riparian buffer in the Jordan watershed when on of the following applies:
 - a. A person has received an Authorization Certificate pursuant to 7-6.9(A) of this Ordinance for a proposed use that is designated as "allowable with mitigation;" or
 - b. A person has received a variance pursuant to 7-6.9(B) of this Ordinance and is required to perform mitigation as a condition of a variance approval.
2. Issuance of the Mitigation Approval
Town of Summerfield shall issue a mitigation approval upon determining that a proposal meets the requirements set out in this Ordinance. The approval shall identify at a minimum the option chosen, the required and proposed areas, and either the mitigation location or the offset payment amount as applicable.
3. Options for Meeting the Mitigation Requirement
The mitigation requirement may be met through one of the following options:
 - a. Payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B.0269 (Jordan Water Supply Nutrient Strategy: Riparian Buffer Mitigation Fees to the NC Ecosystem Enhancement Program) contingent upon acceptance of payments by the NC Ecosystem Enhancement Program, or to a private mitigation bank that complies with banking requirements of the US Army Corps of Engineers currently set out at <http://www.saw.usace.army.mil/WETLANDS/Mitigation/mitbanks.html> or from the US Army Corps of Engineers, P.O. Box 1890, Wilmington, NC 28402-1890, and the applicable trading criteria in Rule 15A NCAC 02B.0273;
 - b. Donation of real property or of an interest in real property pursuant to 7-6.9(C)(6) of this Ordinance; or
 - c. Restoration or enhancement of a non-forested riparian buffer pursuant to the requirements of 7-6.9(C)(7) of this Ordinance.
4. The Area of Mitigation
Town of Summerfield shall determine the required area of mitigation, which shall apply to all mitigation options identified in 7-6.9(C)(3) of this Ordinance and as further specified in the requirements for each option set out in this Section, according to the following:
 - a. The impacts in square feet to each zone of the riparian buffer shall be determined by Town of Summerfield by adding the following:
 - i. The area of the footprint of the use causing the impact to the riparian buffer;

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

- ii. The area of the boundary of any clearing and grading activities within the riparian buffer necessary to accommodate the use; and
- iii. The area of any ongoing maintenance corridors within the riparian buffer associated with the use.
- b. The required area of mitigation shall be determined by applying the following multipliers to the impacts determined in 7-6.9(4)(a) of this Ordinance to each zone of the riparian buffer:
 - i. Impacts to Zone One of the riparian buffer shall be multiplied by three;
 - ii. Impacts to Zone Two of the riparian buffer shall be multiplied by one and one-half; and
- iii. Impacts to wetlands within Zones One and Two of the riparian buffer that are subject to mitigation under 15A NCAC 2H .0506 shall comply with the mitigation ratios in 15A NCAC 2H .0506.

5. The Location of Mitigation

For any option chosen, the mitigation effort shall be located within the same subwatershed of the Jordan watershed, as defined in 15A NCAC 02B.0262, and the same distance from the Jordan Reservoir as the proposed impact, or closer to the Reservoir than the impact, and as close to the location of the impact as feasible. Alternatively, the applicant may propose mitigation anywhere within the same subwatershed of the Jordan watershed, as defined in 15A NCAC 02B.0262, provided that the mitigation proposal accounts for differences in delivery of nutrients to the affected arm of Jordan Reservoir resulting from differences between the locations of the buffer impact and mitigation. Additional location requirements for the property donation option are enumerated in 7-6.9(C)(6)(c)(i) of this Ordinance.

6. Donation of Property

Persons who choose to satisfy their mitigation determination by donating real property or an interest in real property shall meet the following requirements:

- a. The donation of real property interests may be used to either partially or fully satisfy the payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0269. The value of the property interest shall be determined by an appraisal performed in accordance with 7-6.9(C)(6)(d)(iv) of this Ordinance. The donation shall satisfy the mitigation determination if the appraised value of the donated property interest is equal to or greater than the required fee. If the appraised value of the donated property interest is less than the required fee calculated pursuant to 15A NCAC 02B .0269, the applicant shall pay the remaining balance due.
- b. The donation of conservation easements to satisfy compensatory mitigation requirements shall be accepted only if the conservation easement is granted in perpetuity.
- c. Donation of real property interests to satisfy the mitigation determination shall be accepted only if such property meets all of the following requirements:
 - i. In addition to the location requirements of 7-6.9(C)(5) of this Ordinance, the property shall be located within an area that is identified as a priority for restoration in, or is otherwise consistent with the goals of, the *Basinwide Wetlands and Riparian Restoration Plan for the Cape Fear River Basin* developed by NC Division of Water Quality pursuant to G.S. 143-214.10;
 - ii. The property shall contain riparian buffers not currently protected by the State's riparian buffer protection program that are in need of restoration as defined in 7-6.9(7)(d) of this Ordinance;
 - iii. The restorable riparian buffer on the property shall have a minimum length of 1000 linear feet along a surface water and a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;
 - iv. The size of the restorable riparian buffer on the property to be donated shall equal or exceed the area of mitigation responsibility determined pursuant to 7-6.9(C)(4) of this Ordinance;
 - v. Restoration shall not require removal of man-made structures or infrastructure;
 - vi. The property shall be suitable to be successfully restored, based on existing hydrology, soils, and vegetation;
 - vii. The estimated cost of restoring and maintaining the property shall not exceed the value of the property minus site identification and transaction costs;
- viii. The property shall not contain any building, structure, object, site, or district that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470 as amended;
- ix. The property shall not contain any hazardous substance or solid waste;
- x. The property shall not contain structures or materials that present health or safety problems to the general public. If wells, septic, water or sewer connections exist, they shall be filled, remediated or closed at owner's expense in accordance with state and local health and safety regulations;
- xi. The property and adjacent properties shall not have prior, current, and known future land use that would inhibit the function of the restoration effort; and
- xii. The property shall not have any encumbrances or conditions on the transfer of the property interests.
- d. At the expense of the applicant or donor, the following information shall be submitted to the Town of Summerfield with any proposal for donations or dedications of interest in real property:
 - i. Documentation that the property meets the requirements laid out in 7-6.9(C)(6)(c) of this Ordinance;

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Town of Summerfield Development Ordinance Article X

- ii. US Geological Survey 1:24,000 (7.5 minute) scale topographic map, county tax map, USDA Natural Resource Conservation Service County Soil Survey Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation types, presence of existing structures and easements;
 - iii. A current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the State Board of Registration for Professional Engineers and Land Surveyors in "Standards of Practice for Land Surveying in North Carolina." Copies may be obtained from the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609;
 - iv. A current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the "Uniform Standards of Professional North Carolina Appraisal Practice." Copies may be obtained from the Appraisal Foundation, Publications Department, P.O. Box 96734, Washington, D.C. 20090-6734; and
 - v. A title certificate.
7. Riparian Buffer Restoration or Enhancement
- Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:
- a. The applicant may restore or enhance a non-forested riparian buffer if either of the following applies:
 - i. The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to 7-6.9(C)(4) of this Ordinance; or
 - ii. The area of riparian buffer enhancement is three times larger than the required area of mitigation determined pursuant to 7-6.9(C)(4) of this Ordinance;
 - b. The location of the riparian buffer restoration or enhancement shall comply with the requirements in 7-6.9(C)(5) of this Ordinance;
 - c. The riparian buffer restoration or enhancement site shall have a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;
 - d. Enhancement and restoration shall both have the objective of establishing a forested riparian buffer according to the requirements of this Item. Enhancement shall be distinguished from restoration based on existing buffer conditions. Where existing trees are sparse, that is greater than or equal to 100 trees per acre but less than 200 trees per acre, a buffer may be enhanced. Where existing woody vegetation is absent, that is less than 100 trees per acre, a buffer may be restored;
 - e. The applicant shall first receive an Authorization Certificate for the proposed use according to the requirements of 7-6.9(A) of this Ordinance. After receiving this determination, the applicant shall submit a restoration or enhancement plan for approval by the Town of Summerfield. The restoration or enhancement plan shall contain the following:
 - i. A map of the proposed restoration or enhancement site;
 - ii. A vegetation plan. The vegetation plan shall include a minimum of at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity;
 - iii. A grading plan. The site shall be graded in a manner to ensure diffuse flow through the riparian buffer;
 - iv. A fertilization plan; and
 - v. A schedule for implementation;
 - f. Within one year after the Town of Summerfield has approved the restoration or enhancement plan, the applicant shall present proof to Town of Summerfield that the riparian buffer has been restored or enhanced. If proof is not presented within this timeframe, then the person shall be in violation of both the State's and the Town of Summerfield riparian buffer protection program;
 - g. The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal functions; and
 - h. The applicant shall submit annual reports for a period of five years after the restoration or enhancement showing that the trees planted have survived and that diffuse flow through the riparian buffer has been maintained. The applicant shall replace trees that do not survive and restore diffuse flow if needed during that five-year period.

7-6.10. Compliance and Enforcement

A. Site Inspections

- 1. Agents, officials, or other qualified persons authorized by the Town of Summerfield may periodically inspect riparian buffers to ensure compliance with this ordinance.
- 2. Notice of the right to inspect shall be included in the letter of approval of each variance and buffer authorization.
- 3. Authority to Enter Property and Conduct Investigations and Inspections

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

Authorized agents, officials or other qualified persons shall have the authority, upon presentation of proper credentials, to enter and inspect at reasonable times any property, public or private, for the purpose of investigating and inspecting the site of any riparian buffer. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of Town of Summerfield, while that person is inspecting or attempting to inspect a riparian buffer nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties. The Town of Summerfield shall have the power to conduct such investigations as deemed reasonably necessary to carry out the duties as prescribed in this Ordinance.

4. Notice of Violation

- a. If it is determined that a person has failed to comply with the requirements of this Ordinance, or rules, or orders adopted or issued pursuant to this Ordinance, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. 1A-1, rule 4. In the event service cannot be accomplished by registered or certified mail, it may be accomplished in any manner provided in rule (4j) of the North Carolina Rules of Civil Procedure.
- b. The notice shall specify the violation and inform the person of the actions that need to be taken to comply with this Ordinance, or rules or orders adopted pursuant to this Ordinance. The notice shall direct the person to correct the violation within a specified reasonable time. The notice shall inform the person that any person who violates or fails to act in accordance with any of the provisions of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance is subject to the civil and criminal penalties and other enforcement actions as provided in this Ordinance.

5. Power to Require Statements

The Town of Summerfield shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activities.

B. Civil Penalties

1. Assessment of Penalties

Any person who violates or fails to act in accordance with any of the provisions of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance shall be subject to a civil penalty. A civil penalty for a violation may be assessed in an amount not to exceed ten thousand dollars (\$10,000) per day. If any violation for which a penalty may be assessed is continuous, a civil penalty may be assessed for each day of the violation in an amount not to exceed twenty-five thousand dollars (\$25,000) per day for as long as the violation occurs. Each day of a continuing violation shall constitute a separate violation under Section 10.(B)(1).

2. Notice of Civil Penalty Assessment

The governing body of the Town of Summerfield shall provide written notice of the civil penalty amount and the basis for the assessment to the person assessed. The notice of civil penalty assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment, within thirty (30) days after receipt of the notice of assessment by written demand for a hearing.

3. Hearing

A hearing on the civil penalty shall be conducted by the Zoning Board within 30 days after the date the written demand for the hearing is received by the Town of Summerfield. The Zoning Board conducting the hearing shall make its recommendation to the governing body of the Town of Summerfield within 15 days after the date of the hearing.

4. Final Decision.

The governing body shall issue a final decision on the civil penalty within 15 days of the recommended decision. A copy of the final decision shall be served on the violator by any means authorized under G.S. 1A-1, Rule 4.

5. Appeal of Final Decision.

Appeal from the final decision of the governing body shall be to the Superior Court of the county in which the violation occurred. Any appeal must be filed with thirty days of receipt of the final decision. A copy of the appeal must be served on the Town Manager by any means authorized under G.S. 1A-1, Rule 4.

6. Demand for Payment of Penalty

An assessment that is not contested is due when the violator is served with a notice of assessment. The civil penalty must be paid within 30 days of the assessment, if not appealed, or within 30 days after the conclusion of the administrative or judicial review of the assessment. If payment is not received within 30 days after demand for payment is made, the Town of Summerfield may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within three (3) years of the date the assessment was due.

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

7. Use of Penalties

Civil penalties collected pursuant to this Ordinance shall be credited to the general fund of the Town of Summerfield as nontax revenue.

C. Criminal Penalties

1. Any person who negligently violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed fifteen thousand dollars (\$15,000) per day of violation, provided that such fine shall not exceed a cumulative total of two hundred thousand dollars (\$200,000) for each period of 30 days during which such a violation continues.
2. Any person who knowingly or willingly violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class I felony which may include a fine not to exceed one hundred thousand dollars (\$100,000) per day of violation, provided that this fine shall not exceed a cumulative total of five hundred thousand dollars (\$500,000) for each period of 30 days during which such a violation continues.
3. Any person who knowingly violates any provision of this Ordinance or rule or order adopted pursuant to this Ordinance, shall be guilty of a Class C felony which may include a fine not to exceed two hundred fifty thousand dollars (\$250,000) per day of violation, provided that this fine shall not exceed a cumulative total one million dollars (\$1,000,000) for each period of 30 days during which such a violation continues.
4. Criminal penalties collected pursuant to this Ordinance shall be credited to the general fund of the Town of Summerfield as nontax revenue.

D. Injunctive Relief

1. Civil Action in Superior Court

Whenever the governing body of the Town of Summerfield 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, it 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 Town of Summerfield for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Guilford County.

2. Order to Cease Violation

Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

E. Compliance with Requirements

Any person engaged in new activities as defined by this Ordinance who fails to meet the requirements of this Ordinance shall be deemed in violation of this Ordinance.

7-6.11. Severability

If any one or more sections or portions thereof of this Ordinance are held to be invalid or unenforceable, all other sections and portions thereof shall nevertheless continue in full force and effect.

7-6.12. Effective Date

This Ordinance will become effective upon approval by the NC Environmental Management Commission and adoption by the Town of Summerfield Town Council.

7-6.13. Revisions to this Ordinance

The Town of Summerfield shall review any revisions to the Model Local Riparian Buffer Protection Ordinance made by the Environmental Management Commission and, within 60 days of receipt of the recommended revisions, submit draft amendments to the Commission for its consideration and comments. Any changes after the initial adoption may only be more stringent than the baseline already established and may be at the discretion of the town. Within 90 days after receipt of the Commissions' comments, the Town of Summerfield will incorporate amendments into this ordinance.

7-6.14. Definitions

For the purpose of this Ordinance, these terms shall be defined as follows:

- A. 'Access Trails' means pedestrian trails constructed of pervious or impervious surfaces and related structures to access a surface water, including boardwalks, steps, rails, and signage.
- B. 'Airport Facilities' means all properties, facilities, buildings, structures, and activities that satisfy or otherwise fall within the scope of one or more of the definitions or uses of the words or phrases 'air navigation facility', 'airport', or 'airport protection privileges' under G.S. 63-1; the definition of 'aeronautical facilities' in G.S. 63-79(1); the phrase 'airport facilities' as used in G.S. 159-48(b)(1); the phrase 'aeronautical facilities' as defined in G.S. 159-81 and G.S. 159-97; and the phrase 'airport facilities and improvements' as used in Article V, Section 13, of the North Carolina Constitution, which

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

shall include, without limitation, any and all of the following: airports, airport maintenance facilities, clear zones, drainage ditches, fields, hangars, landing lighting, airport and airport-related offices, parking facilities, related navigational and signal systems, runways, stormwater outfalls, terminals, terminal shops, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way; restricted landing areas; any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area; easements through, or interests in, air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of airports and restricted landing areas, and the safe and efficient operation thereof and any combination of any or all of such facilities. Notwithstanding the foregoing, the following shall not be included in the definition of 'airport facilities':

1. Satellite parking facilities;
 2. Retail and commercial development outside of the terminal area, such as rental car facilities; and
 3. Other secondary development, such as hotels, industrial facilities, free-standing offices and other similar buildings, so long as these facilities are not directly associated with the operation of the airport, and are not operated by a unit of government or special governmental entity such as an airport authority, in which case they are included in the definition of 'airport facilities'.
- C. 'Channel' means a natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.
- D. 'DBH' means diameter at breast height of a tree measured at 4.5 feet above ground surface level.
- E. 'Development' means the same as defined in Rule 15A NCAC 2B .0202(23).
- F. 'Ditch or canal' means a man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A ditch or canal may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.
- G. 'Ephemeral stream' means a feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.
- H. 'Existing development' means development, other than that associated with agricultural or forest management activities, that meets one of the following criteria:
1. It either is built or has established a vested right based on statutory or common law as interpreted by the courts, for projects that do not require a state permit, as of the effective date of either local new development stormwater programs implemented under Rule 15A NCAC 2B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) or, for projects requiring a state permit, as of the applicable compliance date established in Rule 15A NCAC 2B .0271 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development), Items (5) and (6); or
 2. It occurs after the compliance date set out in Sub-Item (4)(d) of Rule .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) but does not result in a net increase in built-upon area.
- I. 'Greenway / Hiking Trails' means pedestrian trails constructed of pervious or impervious surfaces and related structures including but not limited to boardwalks, steps, rails, and signage, and that generally run parallel to the shoreline.
- J. 'High Value Tree' means a tree that meets or exceeds the following standards: for pine species, 14-inch DBH or greater or 18-inch or greater stump diameter; or for hardwoods and wetland species, 16-inch DBH or greater or 24-inch or greater stump diameter.
- K. 'Intermittent stream' means a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.
- L. 'Jordan nutrient strategy' or 'Jordan water supply nutrient strategy' means the set of Rules 15A NCAC 2B .0262 through .0273 and .0311(p).
- M. 'Jordan Reservoir' means the surface water impoundment operated by the US Army Corps of Engineers and named B. Everett Jordan Reservoir, as further delineated for purposes of the Jordan nutrient strategy in Rule 15A NCAC 2B .0262(4).
- N. 'Jordan watershed' means all lands and waters draining to B. Everett Jordan Reservoir.
- O. 'New Development' means any development project that does not meet the definition of existing development set out in this Ordinance.
- P. "Perennial stream" means a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

The whole of Article X is added and approved by Town Council _____.

Town of Summerfield Development Ordinance Article X

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

**ARTICLE VIII
ENFORCEMENT**

8-1 VIOLATIONS

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

8-1.1 Development Without Permit

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

8-1.2 Development Inconsistent With Permit

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

8-1.3 Violation by Act or Omission

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

8-1.4 Use in Violation

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

8-1.5 Subdivide in Violation

To subdivide land in violation of this Ordinance or transfer or sell land by reference to, exhibition of, or any other use of a plat or map showing a subdivision of the land before the plat or map has been properly approved under this Ordinance and recorded in the Office of the Register of Deeds, except as permitted by G.S. 160A-375(b) Pre-sale contracts. The description

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Town of Summerfield Development Ordinance Article X

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. *(amended April 2006)*

8-1.6 Continue a Violation

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

8-2 ENFORCEMENT INTENT

8-2.1 Questions

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

8-2.2 Governing Body

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

8-3 ENFORCEMENT PROCEDURE

The Town of Summerfield hereby authorizes Guilford County, or authorized agent, hereafter referred to as Enforcement Officer, to enforce the provisions of this Ordinance under the provisions of this Article. When the Enforcement Officer or his agent finds a violation of this Ordinance, it shall be his duty to notify the owner or occupant of the land, building, structure, sign, or use of the violation. The owner or occupant shall immediately remedy the violation.

8-3.1 Notice of Violation

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

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

8-3.2 Appeal

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

8-3.3 Order of Corrective Action

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

8-3.4 Failure to Comply with an Order

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Town of Summerfield Development Ordinance Article X

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

8-4 REMEDIES

Anyone or all of the following procedures may be used to enforce the provisions of this Ordinance.

8-4.1 Injunction

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

8-4.2 Civil Penalties

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

8-4.3 Denial of Permit or Certificate

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

8-4.4 Conditional Permit or Temporary Certificate

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

8-4.5 Stop Work Orders

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

8-4.6 Revocation of Permits

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

8-4.7 Criminal Penalties

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

The whole of Article X is added and approved by Town Council _____.

8-5 CIVIL PENALTIES – ASSESSMENT AND PROCEDURES

8-5.1 Penalties

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

8-5.2 Notice

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

8-5.3 Responsible Parties

The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this Ordinance may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

8-5.4 Continuing Violation

For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

8-5.5 Demand for Payment

The Enforcement Officer shall make written demand for payment upon the property owner or the person in violation, and shall set forth in detail a description of the violation for which the civil penalty has been imposed.

8-5.6 Nonpayment

If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty. Provided, however, if the civil penalty is not paid within the time prescribed, the Enforcement Officer may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to NCGS 14-4.

8-6 CIVIL PENALTIES – SOIL EROSION AND SEDIMENTATION CONTROL

8-6.1 General

Any person who violates any provisions of Section 7-4 (Soil Erosion and Sedimentation Control), 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, or 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 4500 per day, in addition to the penalty for failure to submit an erosion and sedimentation control plan as provided in Section 8-6.5 (Erosion and Sedimentation Control Plan).

8-6.2 Notice of Violation

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Town of Summerfield Development Ordinance Article X

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. If, after the allotted time period has expired, the violator has not completed corrective action, a civil penalty may be assessed from the date of receipt of the notice of violation. 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.

8-6.3 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. Such civil actions must be filed within three (3) years of the date the final decision was served on the violator.

8-6.4 Specified 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: \$500.00 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: \$500.0 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: \$300.00 per day 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: \$500.00 per day for failure, when more than one (1) acre is disturbed (\$250 per day when one (1) acre or less 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: \$300.00 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: \$250.00 per day for failure to maintain temporary erosion and sedimentation control measures and facilities during the development of the site.
- (G) Failure to Maintain Slopes: \$250.00 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: \$250.00 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: \$250.00 per day for failure on a tract when more than one (1) 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: \$250.00 per day for failure to file an acceptable, revised erosion and sedimentation control plan after being notified of the need to do so.

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- (K) Failure to Maintain Buffer: \$250.00 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: \$500.00 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: \$250.00 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.

8-6.5 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, noncontinuing civil penalty of not more than \$1,000.00. 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.

8-6.6 Civil Penalty Use

Civil penalties collected for erosion and sedimentation control violations shall be used or disbursed as directed by NCGS 113A-64(a).

8-7 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.

8-8 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.

8-9 OTHER POWERS AND ACTIONS

8-9.1 State and Common Law Remedies

In addition to other enforcement provisions contained in this Article, the Governing Body may exercise any and all enforcement powers granted to it by state law or common law.

8-9.2 Previous Enforcement

Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions.

8-10 REMEDIES CUMULATIVE AND CONTINUOUS

8-10.1 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.

8-10.2 Repeat Violations

If an owner or occupant repeats the same violation within a five (5) 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.

8-11 ACTION BY OTHERS

8-11.1 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 could 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.

8-11.2 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 IX
ADMINISTRATION**

9-1 ADMINISTRATIVE PROCEDURES

9-1.1 General

The Governing Body shall provide for the manner in which the provisions of this Ordinance shall be determined, established and enforced, and amended, supplemented or changed. A Board within the context of this Ordinance shall mean any board, commission, or agency empowered therein.

9-1.2 Notice

- (A) Rezoning, Variance, Approved Waiver, Certificate of Appropriateness for a Major Work, or Watershed Modification: Whenever there is a request for a zoning map amendment, Special Use Permit, variance, Certificate of Appropriateness for a Major Work, watershed map amendment, watershed modification, or an approved waiver involving a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land adjoining and contiguous to that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed request or approved waiver.
- 1) Notice shall be by first class mail to the last addresses listed for such owners on the county tax abstracts.
 - 2) The person or persons mailing such notices shall certify to the governing body that proper notice has been given and such certification shall be deemed conclusive in the absence of fraud.
 - 3) In the case of comprehensive rezoning of all property within the Jurisdiction, notice shall be mailed as required by NCGS 160A-384. (amended April 2006)

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Town of Summerfield Development Ordinance Article X

- 4) Notice of such proposed action shall also be published in a newspaper of general circulation in accordance with North Carolina General Statutes.
 - 5) Each site shall be posted in a conspicuous location(s) with the time, date, and notice of public hearing. Posting shall not be required in the case of comprehensive rezoning.
 - 6) In the case of a waiver approved by the Zoning Board Pursuant to Section 5-12, notice of the approved waiver and appeal rights shall be made by first class mail to the owner(s) of the parcel of land affected by the approved waiver and the owners of all parcels of land adjoining and contiguous to that parcel of land as shown on the county tax listing.
- (B) Text Amendment and Appeal: Whenever there is a request for an action involving a text amendment to this Ordinance or an appeal of an interpretation of this Ordinance, a notice of such proposed action shall be published in a newspaper of general circulation in accordance with North Carolina General Statutes.
- (C) Board Approval of Subdivision or Site Plan: Whenever there is a request for an action involving a subdivision or site plan requiring a board approval under this Ordinance; the meeting of the designated board shall have an agenda duly posted in accordance with North Carolina Open Meetings Statutes.

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9-1.3 Organization

The Governing Body shall require that each of the Boards provided for by this Ordinance adopt rules and maintain records.

- (A) Rules of Conduct: Each Board shall adopt rules necessary to conduct its affairs and to establish Board organization, committees, procedures, meeting notice and meeting conduct.
- (B) Conformance of Rules: Such rules adopted by the Board shall be in accordance with state law and the provisions of this Ordinance.
- (C) Election and Terms of Officers: Unless otherwise provided by this Ordinance, a Chairman and Vice Chairman of the Board shall be elected by members of the Board to serve a one (1) year term. The Secretary does not have to be a member of the Board.
- (D) Record of Meetings: The Board shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicate such fact. The Board shall also keep records of its examinations and other official actions. All such records and minutes shall be public record.

9-1.4 Alternate Members

- (A) Inclusion of Alternates: The Governing Body may appoint alternate members to serve in the absence or temporary disqualification of regular members.
- (B) Powers and Duties: Each alternate member, attending a meeting of the Board and serving in the absence or temporary disqualification of a regular member, has and may exercise all the powers and duties of a regular member.

9-1.5 Terms

- (A) Length of Terms: Members and Alternate Members of the Board shall serve a term of three (3) years, provided that upon initial appointment the terms of office may be two (2) years or four (4) years, so as to provide for staggered terms. The terms of all Board members shall not expire at the same time.
- (B) Maximum Consecutive Terms: Members shall serve at the will of the Town Council, with no maximum number of consecutive terms.
- (C) Filling of Vacancies: Vacancies created by resignation or other causes shall be filled as follows:
 - 1) A new member or an alternate member may be appointed to fill the unexpired term of the member so vacating.
 - 2) Members filling vacancies shall serve for the remainder of the unexpired term.

9-1.6 Compensation

Compensation, if any, for board members, may be provided for by the Governing Body.

9-2 THE ZONING BOARD

9-2.1 Authority

There is hereby created a planning agency, pursuant to NCGS 160A-361 to be known as the Zoning Board.

9-2.2 Membership

The Zoning Board shall consist of at least five (5) members and may have alternates, appointed by the Governing Body.

9-2.3 Powers and Duties

The Zoning Board shall have the following powers and duties:

- (A) To hear and decide matters in accordance with the terms of this Ordinance; to wit: major subdivisions and site plans.
- (B) To hear and make recommendations concerning matters in accordance with the terms of this Ordinance; to wit: zoning map amendments and zoning vested rights.
- (C) To hear and make recommendations on matters pertaining to road name changes, road closings, right-of-way vacations, easement removals, right-of-way encroachments, and watershed matters as assigned;
- (D) To provide recommendations to the Governing Body with regard to any of the above matters which may be appealed; as well as those matters which remain with the Governing Body as original jurisdiction such as text amendments and minor watershed modifications in the WCA;
- (E) To develop a comprehensive plan for the territory under its Jurisdiction, subject to specific direction from the Governing Body;
- (F) To make such other studies and plans and review such other related matters as directed by the Governing Body; and
- (G) To review and approve new or altered plans including: subdivisions, clustered or attached residential development, planned unit developments, office, commercial, and industrial developments, street and utility improvements, and any other proposals for development specified by this Ordinance and waivers authorized in Article V (Subdivision: Procedures and Standards);
- (H) To exercise any other power and authority provided to it by the Governing Body, this Ordinance and State law.

9-3 HISTORIC PRESERVATION COMMISSION

9-3.1 Authority

There is hereby created, pursuant to NCGS 160A-400 a Historic Preservation Commission. Pursuant to Section 4 NCGS 160A-400.14, nothing in this Ordinance shall affect the status of any historic district or historic property established or designated under the authority of Part 3 of Article 19 of Chapter 160A of the General Statutes; such establishment or designation being prior to the effective date of this Ordinance. Nothing in this Ordinance shall affect the validity of the Town of Summerfield Joint Historic Properties Commission created by ordinance dated June 16, 1980.

9-3.2 Membership

- (A) Number of Members: The Historic Preservation Commission shall be composed of at least seven (7) members.

Town of Summerfield Development Ordinance Article X

- (B) District Representation: Each existing historic district shall be represented by not more than one (1) person on the Historic Preservation Commission, and the remaining membership shall be composed of persons who have demonstrated an interest in the preservation of historic structures, architectural history or archaeology.
- (C) Designation: The Town of Summerfield Joint Historic Properties Commission is designated to perform the duties of a Historic Preservation Commission.

9-3.3 Powers and Duties

The Historic Preservation Commission shall have the following powers and duties:

- (A) To review, analyze, and recommend to the Zoning Board, items which pertain to existing and potential historic districts and individual structures, buildings, sites or objects to be designated by ordinance as “landmarks”;
- (B) To undertake an inventory of properties of historical, pre-historical, architectural, and/or cultural significance;
- (C) To recommend designation or removal of the designation of “Historic District” for any area within the jurisdiction of the Governing Body. Such designation or removal shall follow an investigation and a report describing the significance of the structures, site features, or surroundings in the district;
- (D) To grant or deny the issuance of a Certificate of Appropriateness in accordance with this Ordinance. The Commission may hold public hearings on the issuance or revocation of such Certificates;
- (E) To recommend appropriate changes to this Ordinance which relate to a historic district or which relate to the preservation of historic structures, landmarks, or areas within the jurisdiction of the Governing Body;
- (F) To acquire by lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks; to hold, manage, preserve, restore and improve the same; and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property;
- (G) To restore, preserve, and operate historic properties;
- (H) To recommend to the Governing Body that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause;
- (I) To Conduct an educational program with respect to historic properties and districts within its jurisdiction;
- (J) To prepare and recommend for adoption a preservation element as a part of the Jurisdiction’s comprehensive plan;
- (K) To negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action is reasonably necessary or appropriate;
- (L) To enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the Historic

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Town of Summerfield Development Ordinance Article X

Preservation Commission may enter any private building or structure without the express consent of the owner or occupant thereof;

(M) To review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alterations or demolition of designated landmarks, pursuant to this Section; and

(N) To exercise such other powers as may be given it by law or assigned to it by the Governing Body.

9-4 BOARD OF ADJUSTMENT

9-4.1 Authority

A Board of Adjustment is hereby established pursuant to NCGS 160A-388. *(amended April 2006)*

9-4.2 Membership

(A) Number of Members: The Board of Adjustment shall consist of at least five (5) members and may have alternates as appointed by the Governing Body.

(B) Governing Body Serving as Board of Adjustment: If the Governing Body chooses not to appoint members to the Board of adjustment, it shall sit as the Board of Adjustment subject to the provisions of this Ordinance.

(C) Powers and Duties

The Board of Adjustment shall have the following powers and duties:

- 1) To hear and decide appeals from and review any order, requirement, decision, determination, or interpretation made by an administrative official charged with enforcing this Ordinance;
- 2) To review appeals from the proceedings of the Historic Preservation Commission concerning the issuance of a Certificate of Appropriateness, limited to certiorari;
- 3) To hear and decide any exceptions which are specifically delegated to it by this Ordinance;
- 4) To determine and vary application of zoning regulations in harmony with their general purpose and intent and in accordance with general and specific rules contained therein;
- 5) To hear and decide appeals for variances from the zoning provisions of this Ordinance in cases where special conditions would make strict and literal interpretation enforcement of the zoning provisions of this Ordinance result in a loss of privileges shared by other properties within the same zoning district;
- 6) To interpret zoning maps and pass upon disputed questions of district boundary lines and similar questions may occur in the administration of the Ordinance;
- 7) To hear and decide all matters referred to it or upon which it is required to pass under this Ordinance; and
- 8) To determine upon application of an owner or upon referral from the Summerfield Zoning Board whether a proposed nonconforming use is equal or less intensive than an existing, legal nonconforming use, in accordance with Section 3-14.2 (Nonconforming Use of Land).

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9-4.3 Voting

(A) Required Vote for Approval: A four-fifths vote of its members shall be required for a Board of five (5) members to:

- 1) Affirm or reverse any order, wholly or partly; modify a requirement, decision, determination or interpretation; of an administrative officer charged with enforcing this Ordinance;
- 2) Decide in favor of the applicant on a matter upon which the Board is required to pass under this Ordinance;
- 3) Grant a variance from the provisions of the Ordinance; or
- 4) Grant special exceptions for Historic Districts and other purposes as assigned.

(B) Vote of the Chairman: The Board chairman shall vote as any other Board member.

(C) Delay of Decision: The Board may, in its discretion, direct that its decision be delayed to a date or time subsequent to the Board's vote on an appeal.

(D) Conflicts of Interest: A member of the 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 recuse himself or herself, the remaining members shall be majority vote rule on the objection. (*amended April 2006*)

9-4.4 Court Review

(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:

- 1) Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board is filed in the Planning or Building Inspections Department; or
- 2) After a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Secretary or Chairman of the Board at the time of its hearing of the case, whichever is later.

9-4.5 Notice of Decision

The decision of the Board may be delivered to the aggrieved party either by personal service or by registered mail return receipt requested.

9-4.6 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.

9-4.7 Appeals To The Board

- (A) Appeal Eligibility: Any person aggrieved or any officer, department, board, or bureau of the Jurisdiction may make an appeal.
- 1) Appeals shall be made within the time prescribed by the Board by general rule, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal, specifying the grounds thereof.
 - 2) The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record from which such action 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, after notice of appeal has been filed with him, that because of facts stated in the certificate a stay would, in the officer's opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of this Ordinance.
- (C) Effect of Certification: If certification occurs in accordance with Section 9-5.7(B) (Effect of Appeal), proceedings may not be stayed except by a restraining order, which may be granted by a court of competent jurisdiction. Notice of the restraining order shall be given in writing to the officer from whom the appeal is taken.
- (D) Notice of Hearing: The Board shall fix a reasonable time for hearing the appeal, give due notice of the appeal to the parties, and decide the appeal within a reasonable time.
- (E) 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 in the circumstances.
- (F) Conditions of Rehearing: The Board shall not be required to hear an appeal or application previously denied if it finds that there has been no substantial change in conditions or circumstances bearing on the appeal or application.

9-4.8 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 Enforcement Officer.
- (B) Procedure: The Board shall:
- 1) Fix a reasonable time for holding a public hearing on the variance request;
 - 2) Give notice of the variance request as prescribed in Section 9-1.2 (Notice); and
 - 3) Decide the variance request within a reasonable time.
- (C) Grounds for Variance:
- 1) The Board shall make findings of fact that the requirements of Section 9-5.8 (D) (Granting of Variance) have been met by the applicant.
 - 2) The variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure. The fact that property may be utilized for greater profit, however, will not be considered adequate to justify the granting of a variance.
 - 3) The Board shall not, under any circumstances, grant a variance to permit a use or density not otherwise permitted by this Ordinance in the zoning district involved.
 - 4) Neither the nonconforming use of lands, buildings or structures in the same zoning district, nor the permitted use of lands, buildings or structures in other zoning districts shall be considered as grounds for the issuance of a variance. Furthermore, mere financial hardship does not constitute grounds for the granting of a variance.
 - 5) A variance may be granted where a building permit has been issued and, due to unintentional error of the Enforcement Officer in determining the location of the structure on the property, there is a minimal violation of the dimensional

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Town of Summerfield Development Ordinance Article X

requirements, provided that such relief may be granted without substantially impairing the purpose and intent of this Ordinance.

- (D) Granting of Variance: A variance may be granted by the Board if evidence presented by the applicant persuades it to reach the following conclusions:
- 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) 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 result from unique circumstances related to the applicant's property;
 - c) The hardship relates to the applicant's property, rather than personal circumstances; and
 - 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.
- 1) Violations of such conditions and safeguards, when a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.
 - 2) A variance granted subject to a condition shall be permitted only so long as there is compliance with the condition.
 - 3) If a violation of a condition of a variance occurs, the Summerfield Zoning Board may revoke the Certificate of Occupancy.
 - 4) In the event that any such condition is held invalid, for any reason, such holding shall have the effect of invalidating the variance granted and shall render the variance null and void.
- (F) Duration: The variance may be issued for an indefinite duration or for a specified 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.

9-4.9 Flood Hazard Appeals

(A) Authority

The Board of Adjustment, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance

- (B) 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.
- (C) Appeal and Variance Considerations: 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;
- 1) The danger that materials may be swept onto other lands to the injury of others;
 - 2) The danger to life and property due to flooding or erosion damage;
 - 3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - 4) The importance of the services provided by the proposed facility to the community;
 - 5) The necessity to the facility of a waterfront location as defined under Section 2-1.6 of this ordinance as a functionally dependant facility, where applicable;

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Town of Summerfield Development Ordinance Article X

- 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; and
- 11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(D) Granting of Variances:

- 1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- 2) Functionally dependant facilities if determined to meet the definition as stated in Section 2-1.6 of this ordinance, provided provisions of Sections 9-5.9(I)(1), (2), and (3) have been satisfied, and such facilities are protected by methods that minimize flood damages.
- 3) Any other type of development, provided it meets the requirements stated in this section.

(E) A written report addressing each of the above factors shall be submitted with the application for a variance.

(F) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increased risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood I 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.

(H) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(I) Conditions for Variances:

- (1) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations or ordinances.
- (2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
- (3) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Variances shall only be issued proper to development permit approval.

(5) Variances shall only be issued upon:

- a) A showing of good and sufficient cause;

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Town of Summerfield Development Ordinance Article X

- b) A determination that failure to grant the variance would result in exceptional hardship; and
- c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, creation of a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws ordinances.

9-5 ENFORCEMENT OFFICER

9-5.1 Establishment and Authority

The Governing Body shall appoint Enforcement Officer(s) 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.

9-5.2 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 Governing Body.

9-5.3 Flood Hazard Administrator Duties

An Enforcement Officer, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provision 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

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Town of Summerfield Development Ordinance Article X

permits be provided and maintained on file with the floodplain development unit.

3. Notify adjacent communities and the N. C. 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 within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 7-5.10 are met.
6. Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and attendant utilities of all new or substantially improved structures, in accordance with Section 3-8.4.
7. Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures have been flood-proofed, in accordance with Section 3-8.4.
8. Obtain actual elevation (in relation to mean sea level) of all public utilities, in accordance with Section 3-8.4.
9. When flood-proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Sections 3-8.4 and 7-5.8(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 7-5.3(B), 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 7-5.9(B)(2), 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 7-5.3(B), 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 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

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Town of Summerfield Development Ordinance Article X

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 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 8-3.
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 in accordance with Section 7-5.3(B) 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 Revisions Based of Fill (LOMR-F) and Letters of Map Revisions (LOMR).

9-5.4 Airport Zoning Duties

The Enforcement Officer shall also administer and enforce the "Airport Zoning Regulations of the Greensboro-High Point Airport" adopted by the Greensboro-High Point Airport Authority on April 15, 1958, as the same may from time to time be amended, in connection with the enforcement of this Ordinance; provided, however, that this Ordinance shall not limit the effectiveness or scope of such airport zoning regulations. The Summerfield Zoning Board shall not issue a building permit or certificate of occupancy for any building not in conformity with the provisions of the "Airport Zoning Regulations of the Greensboro-High Point Airport," except upon written order of the Board of Airport Zoning Appeals.

9-5.5 Deviation to Dimensional Requirement

If the Enforcement Officer finds that any dimensional requirement in this Ordinance has not been specifically adhered to, but that such deviation was a result of a good faith error and that said error would not adversely impact an adjoining property, he may permit a dimension deviation up to and including one (1) foot. Only one dimension deviation per building may be allowed.

9-5.6 Historic District Requirements

Subject to a Certificate of Appropriateness, the Enforcement Officer may issue permits for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places under the conditions set forth in Section 4-11.1 (Historic Districts).

9-6 MULTI-JURISDICTIONAL DEVELOPMENT ORDINANCE COMMITTEE (MDOC)

9-6.1 Authority

There is hereby established a text amendment review committee, pursuant to Section 3-12.4 of this Ordinance, to be known as the Multi-jurisdictional Development Ordinance Committee (MDOC).

9-6.2 Membership

The MDOC shall consist of at least two (2) members appointed by each participating jurisdiction who shall be residents of the jurisdiction they represent.

9-6.3 Powers and Duties

The MDOC shall have the following powers and duties:

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Town of Summerfield Development Ordinance Article X

- (A) To make recommendations to the Zoning Board and Governing Body concerning text amendments to this Ordinance;
- (B) To review any other related matters as directed by the Governing Body; and
- (C) To adopt Rules and Procedures for their organizations and operation, subject to an affirmative vote of two-thirds of the members of the Committee.

9-7 APPEALS

9-7.1 General

Unless as otherwise provided, appeals to decisions, actions, orders, or interpretations of this Ordinance shall be:

- (A) In writing;
- (B) Filed within fifteen (15) days of the decision; and
- (C) Filed with the Town Clerk.

9-7.2 Zoning Board

Unless otherwise provided, an appeal from a decision of an Enforcement Officer with regard to an erosion control plan, a watershed development plan, is to the Zoning Board.

9-7.3 Board of Adjustment

- (A) Unless otherwise provided, the decision of an Enforcement Officer with regard to an interpretation of a zoning provision of this Ordinance, a floodplain boundary, or a zoning boundary, may be appealed to the Board of Adjustment.
- (B) Unless otherwise provided, an appeal from an address assignment shall be to the Board of Adjustment.
- (C) Appeal from a decision of the Historic Preservation Commission with regard to a Certificate of Appropriateness shall be to the Board of Adjustment in the nature of certiorari.

9-7.4 Governing Board

- (A) Appeals from a decision of the Zoning Board with regard to a zoning map amendment, conditional use district, special use permit, or watershed development plans shall be to the Governing Body.
- (B) Appeals from a decision of the Zoning Board with regard to street name changes, road closings, right-of-way vacations, easement removals, subdivision, site plan, or soil erosion and sedimentation control plan shall be to the Governing Body.

9-7.5 Judicial Appeal

Except as otherwise provided, an appeal from a decision of the Governing Body or the Board of Adjustment is to a court of competent jurisdiction.

9-7.6 Soil Erosion and Sedimentation Appeals

(A) Procedure:

- 1) Written Appeal: The disapproval or modification of any proposed soil erosion and sedimentation control plan by the Enforcement Officer, shall entitle the person submitting the plan to a public hearing if such person submits written demand for a hearing within fifteen (15) days after receipt of written notice of disapproval or modifications.
- 2) Timing: A hearing held pursuant to this Section shall be conducted by the Zoning Board, within thirty (30) days or at the next scheduled meeting, after the date of the appeal or request for a hearing.
- 3) Recommendation: The Zoning Board shall conduct a hearing and shall make a recommendation to the Governing Body, within thirty (30) days after the date of the hearing on any soil erosion and sedimentation control plan.

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Town of Summerfield Development Ordinance Article X

- 4) **Public Hearing:** The Governing Body will render its final decision on any soil erosion and sedimentation control plan upon which a hearing is requested within fifteen (15) days after receipt of the recommendations from the Zoning Board.
 - 5) **Appeal of Governing Body Denial:** If the Governing Body upholds the disapproval or modification of a proposed soil erosion and sedimentation control plan following the hearing, the person submitting the plan shall then be entitled to appeal the Governing Body's decision to the North Carolina Sedimentation Control Commission as provided in NCGS 113A-61(c) and Title 15 NCAC 4B.0018(b).
- (B) Direct Appeal to Sedimentation Control Commission: In the event that a soil erosion and sedimentation control plan is disapproved pursuant to Section 7-4.12(M) (Grounds for Plan Disapproval) of this Ordinance, the Jurisdiction shall notify the Director of the Division of Land Resources of such disapproval within ten (10) days. The Jurisdiction shall advise the applicant and the Director in writing as to the specific reasons that the plan was disapproved. The applicant may appeal the Jurisdiction's disapproval of the plan directly to the North Carolina Sedimentation Control Commission.

The whole of Article X is added and approved by Town Council _____.