

**SECTION 32.2: GENERAL REGULATIONS APPLICABLE TO ALL DISTRICTS**

A. **Affected Territory, Zoning Map:** The regulations contained in this chapter shall apply to all territory within the corporate limits of the City of Burlington and its duly established extraterritorial zoning jurisdiction as they now exist or may exist in the future. The affected territory is specifically shown on the “Zoning Map, City of Burlington, North Carolina, GIS Generated” and as amended that accompanies and is hereby declared to be a part of this ordinance. Regardless of the existence of purported copies of the zoning map, which may from time to time be made or published, the zoning map, which shall be located in the office of the Building Inspector, shall be the final authority as to the extent and location of zoning districts within the affected territory. **(Extraterritorial jurisdiction established June 27, 1972. Zoning districts for same adopted February 6, 1973. Amendment adding “GIS Generated” adopted December 21, 2004.)**

B. **Enumeration of Districts:** For the purposes of this ordinance, the affected territory as described in Paragraph 32.2:A. above, is divided into the following districts which are designated by the accompanying symbols:

- R-30 Single-Family Residential District  
**(Amendment creating R-30 Districts adopted February 7, 1984)**
- R-15 Residential District
- R-12 Residential District  
**(Amendment creating R-12 Districts adopted December 18, 1973)**
- R-9 Residential District
- R-6 Residential District
- R-M Residential-Mobile Home District  
**(Amendment creating R-M Districts adopted March 19, 1974)**
- MF-A Multifamily Residential District
- MF-B Multifamily Residential District
- OI Office-Institutional District
- R-OI Restricted Office-Institutional District  
**(Amendment creating R-OI Districts adopted March 6, 1973)**
- PEC Planned Employment Center District  
**(Amendment creating PEC Districts adopted June 3, 2003)**
- B-1 Neighborhood Business District
- B-2 General Business District
- B-3 Central Business District
- I-1 Planned Industrial District
- I-1A Planned Industrial-Residential District  
**(Amendment creating I-1A Districts adopted February 6, 1973)**
- I-2 Light Industrial District
- I-3 Heavy Industrial District
- CR Conditional Residential District  
**(Amendment creating CR Districts adopted June 3, 2003)**
- COI Conditional Office-Institutional District  
**(Amendment creating COI Districts adopted June 3, 2003)**
- CB Conditional Business District  
**(Amendment creating CB Districts adopted June 3, 2003)**
- CI Conditional Industrial District  
**(Amendment creating CI Districts adopted June 3, 2003)**
- CMX-R Conditional Mixed Use-Residential District  
**(Amendment creating CMX-R Districts adopted June 3, 2003)**
- CMX-C Conditional Mixed Use-Commercial District  
**(Amendment creating CMX-C Districts adopted June 3, 2003)**

C. **Interpretation of District Boundaries:**

1. Boundaries indicated as approximately following platter lot lines shall be construed as following such lot lines.
2. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.

3. Boundaries indicated as approximately following City limits shall be construed as following such city limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as parallel to or extensions of features indicated in subsections one through four above shall be so construed.
6. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the zoning map or in other circumstances not covered by subsections one through five above, the Board of Adjustment shall interpret the district boundaries.

**D. Applicability of These Regulations:**

1. Use and Structural Requirements: No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

In historic districts and for designated historic properties, the above requirements may be modified by the "Architectural and Historic Guidelines – Burlington Historic District." **(Amendment adopted May 21, 1991)**

2. Location and Density Requirements: No building or other structure shall hereafter be erected or altered:
  - a. to exceed the height;
  - b. to accommodate or house a greater number of families;
  - c. to occupy a greater percentage of lot area;
  - d. to have narrower or smaller rear yards, front yards, side yards or other open spaces;

than herein provided or to be erected or altered in any manner contrary to the provision of this ordinance.

In historic districts and for designated historic properties, the above requirements may be modified by the "Architectural and Historic Guidelines – Burlington Historic District." **(Amendment adopted May 21, 1991)**

3. Open Space Requirements: No space that has been counted as part of a yard, lot area, parking area or loading area required under this ordinance for one building or use shall be counted to satisfy or comply with a yard, lot area, loading area or parking area requirement for any other building or use. The minimum required yards, lot area, parking area or loading area for any building or use existing or under construction at the time of the passage of this ordinance shall not be encroached upon or counted to satisfy such requirements for any other building or use.

- E. **Locations of Building Lines or Irregularly Shaped Lots:** Locations of front, side and rear building lines on irregularly shaped lots shall be determined by the Building Inspector. Such determinations shall be based on the spirit and intent of the district regulations to achieve spacing and locating of buildings or groups of buildings on individual lots.
- F. **Two or More Uses in the Same Building:** When two or more uses occupy the same building, the greatest yard requirements applicable to any such uses in the district in which the lot is located shall apply to such buildings. Off-street parking and loading requirements shall be met in full for all uses in such building.
- G. **Requirements of This Chapter Are Minimums:** The provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare and shall apply uniformly to each class or kind of structure or land.
- H. **Other Requirements Are Not Abrogated:**
- Private requirements:** It is not intended by this chapter to abrogate or annul any easements, covenants or other agreements between parties imposing greater restrictions upon the use of buildings or land.
- I. **Requirements of this Chapter Control When Stricter Than Other Provisions of Law or Agreements:** Where this chapter imposes greater restrictions upon the use of buildings or land, upon the height of buildings or requires greater lot area and width, greater yards, courts or open spaces than required by such other provisions of law or ordinance or by such rules, regulations or permits or by such easements, covenants or agreements, the provisions of this chapter shall control.
- J. **Applicability to Public Property:** In addition to privately-owned property, all provisions shall be applicable to property owned by governmental agencies and other public and semi-public bodies, including buildings erected and constructed by the State of North Carolina and its political subdivisions.
- K. **Mobile Homes:** No mobile home shall be occupied as a residence except in a mobile home park meeting the requirements of Section 32.13:I of this chapter.

- L. **Setback Lines Along Certain Streets:** Regardless of other provisions in this chapter, no building shall be located nearer to any street than the setback line as established by the City Council. A file of such setback distances is maintained in the office of the Building Inspector.
- M. **Dwellings on Rear of Lot:** No building to be used as a dwelling shall be constructed or altered in the rear of or moved to the rear of a building situated on the same lot, nor shall any building be constructed in front of or moved to the front of a dwelling situated on the same lot except when such building is part of a multifamily development meeting all requirements for such developments.
- N. **Lots Must Abut a Street:** Every lot shall have frontage on and access to a public street except where provided otherwise in this ordinance and except where private streets are constructed as provided for in Section 33.8:(e)(11) of the Burlington City Code (Subdivision Regulations). **(Amendment adopted May 20, 1986)**
- O. **Reserved:**
- P. **Historic District(s) and Properties Regulations:**

1. Purpose

To promote the sound and orderly preservation and conservation of historic properties and areas and to protect, safeguard and conserve the heritage of the City of Burlington and any individual property therein that embodies important elements of its social, economic, cultural, political or architectural history or prehistory for the education, pleasure and enrichment of residents and all citizens, for the purpose of fostering civic beauty and for the purpose of stabilizing and enhancing property values, thus contributing to the improvement of the general health and welfare of the City of Burlington, this Section 32.2:P is hereby adopted. **(Amendment adopted August 20, 1991)**

2. Historic District(s)

(A) Definition of Character of Historic District(s)

Historic Districts established pursuant to N.C.G.S. 160A-400.3 shall consist of areas that are deemed to be of special significance in terms of their history, prehistory, architecture, and/or culture and to possess integrity of design, setting, materials, feeling and association.

(B) Designation of Historic District(s)

Pursuant to N.C.G.S. 160A-400.4., the City Council may designate, and from time to time amend by ordinance, one or more historic districts, the extent and boundaries of which are to be indicated on the official zoning map of the City of Burlington and its extraterritorial jurisdiction. Such ordinance may treat historic districts either as a separate use district classification or as districts that overlay other zoning districts. Where historic districts are designated as separate use districts, the Zoning Ordinance may include as uses by right or as conditional uses those found by the Burlington Historic

Preservation Commission to have existed during the period sought to be restored or preserved or to be compatible with the restoration or preservation of the district. Where historic districts are designated as overlay districts, all uses permitted in any such district, whether by right or as a Special Use, shall be permitted in a historic district in accordance with Section 32.9 of the Zoning Ordinance of the City of Burlington.

However, before any building construction, reconstruction, alteration, restoration, demolition or moving or any other activity commences that would alter the exterior appearance of any building, structure or appurtenant feature within a historic district, a Certificate of Appropriateness shall be issued by the Burlington Historic Preservation Commission.

(C) Required Historic District Designation and Amendment Procedures:

No historic district or districts shall be designated or amended until the following procedural steps have been taken:

- a. The Burlington Historic Preservation Commission has prepared an investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district and a description of the boundaries of such district and has made a recommendation thereon to the Burlington Planning and Zoning Commission.
- b. The North Carolina Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall make an analysis of and recommendation concerning such report and description of proposed boundaries. Failure of the Department of Cultural Resources to submit its written analysis and recommendation to the City of Burlington within 30 calendar days after a written request for such analysis has been received by this state department shall relieve the City of Burlington of any responsibility for awaiting such analysis, and the City Council may at any time thereafter take any necessary action to adopt or amend its Zoning Ordinance.
- c. The Burlington Planning and Zoning Commission shall review the recommendations of the Burlington Historic Preservation Commission and forward its comments and recommendations to the City Council.
- d. The Planning and Zoning Commission shall process and review historic district zoning and rezoning in the same manner as would otherwise be required for the adoption or amendment of any appropriate Zoning Ordinance provision.

- e. The Planning and Zoning Commission shall refer any request to change the zoning classification of property within any historic district as well as any Special Use Permit or conditional use requested within a historic district to the Burlington Historic Preservation Commission. The Historic Preservation Commission shall then make a recommendation on such request to the Planning and Zoning Commission.

(D) Required Conformance to Dimensional and Parking Regulations: Exceptions

- a. Within any historic district so designated as an overlay district, all building setbacks, front yard, side yard, rear yard, plot coverage, and height requirements shall comply with the dimensional requirements of the applicable zoning district, unless the Historic District Regulations set other requirements. It is the intent of this ordinance to supersede, within the historic district, the dimensional regulations of the applicable zoning district, when specific requirements particular to the historic district are so defined.
- b. Where it is found by the Historic Preservation Commission that an application for a building permit in any historic district covers activity constituting an authentic restoration or reconstruction of a building or structure that existed at the same location, but such building or structure does not comply with the dimensional requirements of the applicable zoning district, said building or structure may be restored or reconstructed at the same location where the original building or structure was located upon approval by the Board of Adjustment, provided no use other than that permitted in accordance with Section 32.9 of the Zoning Ordinance of the City of Burlington is made of said property. Such conditions as may be set by the Historic Preservation Commission and the Board of Adjustment shall be the criteria for the issuance of the building permit.
- c. The Board of Adjustment shall not be authorized in action undertaken by this ordinance to approve a use of property that is not a use permitted by right or as a special use within the district in which the property is located. In addition to any other condition, the Board of Adjustment may make regarding such authorization, any items restored, reconstructed or maintained on, over or within a public sidewalk, public alley area or other such public way shall be the responsibility of the owner, his heirs and assigns. The owner's restoration, reconstruction or maintenance of any such item within such areas shall constitute the owner's agreement to protect and hold the City of Burlington blameless against any and all liability, cost, damage or expense suffered by the City of Burlington as a result of or

growing out of the restoration, reconstruction, or maintenance thereof. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the vehicular truck way of a street or alley shall be, at its lowest point, 14 feet above the travel way.

- d. Where the Historic Preservation Commission, in considering an application for a Certificate of Appropriateness, shall find that the number of off-street parking spaces or design standards required by the zoning regulations for a building or structure for which a building permit is requested would render the building incompatible with the historic aspects of the district, it may recommend to the Board of Adjustment a waiver, in part or in whole, of the off-street parking requirements. The Board of Adjustment may authorize as a special exception a reduced standard concerning off-street parking, provided: (1) the Board finds that the lesser standard will not create problems due to increased on-street parking; and (2) will not constitute a threat to public safety.

### 3. Historic Properties

#### (A) Adoption of an Ordinance of Designation

Upon complying with N.C.G.S. 160A-400.6., the Burlington City Council may adopt and from time to time amend or repeal an ordinance designating one or more historic properties within the City of Burlington and the City's extraterritorial jurisdiction.

- a. The ordinance shall describe each property designated therein, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural and/or archaeological significance, including the land area of the property so designated and any other information the Historic Preservation Commission and the City Council deem necessary.
- b. For each building, structure, site, area or object designated as a historic property, the ordinance shall require that the waiting period set forth in Subsection 9, Delay in Demolition of Historic Properties and Buildings Within Historic Districts, be observed prior to its demolition.
- c. For each designated historic property, the ordinance may also provide for a suitable sign on the property stating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way.



(B) Criteria for Historic Property Designation

No property, building, structure, site, area or object shall be recommended for designation as a historic property unless it is deemed and found by the Historic Preservation Commission and City Council to be of special significance in terms of its historical, pre-historical, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association (N.C.G.S. 160A-400.5.).

(C) Required Historic Property Designation Procedures

As a guide for the identification and evaluation of historic properties, the Historic Preservation Commission shall undertake, at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural, pre-historical, and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the Division of Archives and History of the State of North Carolina. The Historic Preservation Commission shall also (1) prepare and adopt rules of procedure, and (2) prepare and adopt principles and guidelines not inconsistent with the North Carolina General Statutes for altering, restoring, moving, or demolishing properties designated as historic.

No ordinance designating a historic building, structure, site, area or object as a historic property nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the Historic Preservation Commission or the City Council until all the following procedural steps have been taken:

a. Designation Reports Prepared by the Commission

A Designation Committee shall be established from the membership of the Historic Preservation Commission to review the inventory of properties of historical, architectural, archaeological, and cultural significance within the Commission's jurisdiction and recommend to the full Commission from time to time the designation of historic properties. If the Commission accepts the recommendation of the Designation Committee that a property be considered for designation, the Commission shall make or cause to be made an investigation and report meeting the minimum standards in the following Subsection 3(C)c., Standards for Designation Reports. When a designation report is prepared by the Commission and is to be considered at a Commission meeting, the chairman shall notify by mail (mailed not less than seven calendar days prior to the meeting at which the matter is to be heard) the owners of the property and the owners of abutting property.

b. Designation Reports Prepared by the Property Owner

To receive consideration for designation of a property as historic, a property owner must prepare an application meeting the minimum standards contained in the following Subsection 3(C)c., Standards for Designation Reports. Applications prepared by the property owners will be judged according to the same criteria as those prepared by the Commission. Property owner applications shall be prepared on forms provided by the City Planning Department.

The Designation Committee shall also review applications for historic property designation submitted by property owners. The committee shall be available to meet with the applicant at an early stage in the process of preparing the application in order to advise the applicant informally concerning the Commission's standards for reports, the criteria for designation, the boundaries of the property to be designated, and other relevant matters.

The Designation Committee, collectively and individually, shall refrain from any indication of approval or disapproval, but shall not for that reason, be barred from reasonable discussion of the applicant's proposals. No advice or opinion given, or reported as having been given, by any member of the committee at such information meeting(s) shall in any way be official or binding upon the Historic Preservation Commission.

An application for designation prepared by the property owner and meeting all of the standards contained in Subsection 3(C)c., Standards for Designation Reports, must be received at least 14 calendar days prior to the next meeting of the Commission to be considered at that meeting.

c. Standards for Designation Reports

The Commission or a property owner shall make or cause to be made an investigation and a report on the historic, architectural, pre-historical, educational or cultural significance of each building structure, site, area or object proposed for designation or acquisition (N.C.G.S. 160A-400.6 (2)). Such report and investigation shall include the suggested minimum standards as set forth by the North Carolina Division of Archives and History. These standards are outlined in a Manual for Owners of Historic Properties which may be obtained from the City Planning Department.

d. Consideration of the Report

Once the designation report has been prepared, either by the Commission or by the property owner, and once the notification required by Subsection 3(C)a., Designation Reports Prepared by the

Commission, has been met, the Commission shall consider the report. The Commission may accept it, amend it, reject it, or recommend further study. If the report is accepted by the Commission, the City Planning Department shall forward the report to the Division of Archives and History, North Carolina Department of Cultural Resources for review.

e. Review by the Department of Cultural Resources

The Department of Cultural Resources, acting through the State Historic Preservation Officer, shall be given the opportunity to review and comment upon the substance and effect of the designation of any proposed historic property pursuant to the N.C.G.S. 160A-400.6(3). If the department fails to submit written comments or recommendations in connection with any designation within 30 days following receipt of the Designation Report, the Commission and the City Council shall be relieved of any responsibility to consider such comments in accordance with N.C.G.S. 160A-400.6(3).

f. Upon receipt of the comments and recommendations from the Department of Cultural Resources, the Commission shall submit a copy of the Designation Report and a copy of the proposed ordinance of designation to the City Council.

g. The Commission and the City Council shall hold a joint or separate public hearing(s) on the proposed ordinance. Reasonable notice of the time and place of each hearing shall be given. If separate hearings are held, written notice of the hearing with the Historic Preservation Commission shall be mailed to the applicant and to all owners and occupants of adjoining or abutting properties whose identity and current mailing address can be ascertained by the exercise of reasonable diligence. Notice of the City Council hearing shall be published at least once in a newspaper generally circulated within the city in which the property or properties to be designated or acquired are located. All such notices shall be published or mailed not less than 10 nor more than 20 days prior to the date of the public hearing(s). All meetings of the Commission shall be open to the public in accordance with North Carolina Open Meetings Law, Chapter 143, Article 33C.

h. Following the joint or separate public hearing(s), the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

i. Upon adoption of the ordinance, the owners and occupants of each designated historic property shall be given written notification of such designation by the City Council, insofar as reasonable diligence

permits. One copy of the ordinance and each amendment thereto shall be filed by the Historic Preservation Commission in the office of the Register of Deeds of Alamance County. Each historic property designated in the ordinance shall be indexed accordingly to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds office, and the Historic Preservation Commission shall pay a reasonable fee for filing and indexing.

A second copy of the ordinance and each amendment thereto shall also be kept on file in the office of the City Clerk and be made available for public inspection at any reasonable time.

A third copy of the ordinance and each amendment thereto shall be given to the City or County Building Inspector. The fact that a building, structure, site, area or object has been designated a historic property shall be clearly indicated on all tax maps maintained by Alamance County for such period as the designation remains in effect.

- j. Upon adoption of the historic property ordinance or any amendment thereto, it shall be the duty of the Commission to give notice thereof to the tax supervisor of Alamance County. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes, in accordance with N.C.G.S. 105-278, Taxation.

(D) Designation of Interior Features

In accordance with G.S. 160A-400.9(b), specific interior features of architectural, artistic or historical significance in publicly owned properties and of privately owned properties that the owner has given consent for interior review may be designated as historic properties. This designation authority does not apply to interiors of buildings or structures owned by the State of North Carolina.

Said consent of an owner for interior review of privately owned properties shall bind future owners and/or successors in title, provided such consent has been filed in the office of the Register of Deeds of Alamance County and indexed according to the name of the owner in the grantee and grantor indexes. The historic properties designation ordinance shall specify the interior features to be reviewed and the specific nature of the Historic Preservation Commission's jurisdiction over the interior.

(E) Application Fees

The Historic Preservation Commission is authorized to establish an application fee for the submission of historic property designation reports. This fee shall be no more than necessary to defray the cost of processing the designation report, advertising the public notice, recording the designation ordinance, and preparing the sign for the historic property.

4. Certificate of Appropriateness

(A) Certificate of Appropriateness Required

From and after the designation of a historic property or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on such property or within such district until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Historic Preservation Commission.

For the purposes of this ordinance, "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size and location of all such signs. Such "exterior features" may in the discretion of the Historic Preservation Commission, include historic signs, color, and significant landscape, archaeological, and natural features of the area.

A Certificate of Appropriateness shall be issued prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures. A Certificate of Appropriateness shall be issued or denied, subject to such reasonable conditions as the Historic Preservation Commission may impose thereon, according to such standards and guidelines as set forth elsewhere in this ordinance or adopted by the Historic Preservation Commission. A Certificate of Appropriateness shall be required for all activities specified in this ordinance whether or not a building or other permit is required. Any building permit or such other permit not issued in conformity with this ordinance shall be made invalid. The discontinuance of work or the lack of progress toward achieving compliance with a Certificate of Appropriateness for any period of six months shall render the certificate null and void, and application may be

made for a new certificate. The issuance of a Certificate of Appropriateness does not run with the land and cannot be conveyed in the sale of property.

The City of Burlington and all public utilities shall be required to obtain a Certificate of Appropriateness prior to initiating in a historic district any changes in the character of street paving, sidewalks, utility installations, lighting, street trees, walls, fences or exterior of structures and buildings on property, easements or streets in which they have a fee or other interest.

Except for the designation of interior features as provided for in Subsection 3(D) of this ordinance, the Historic Preservation Commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs, or other significant features in the district that would be incongruous with the special character of the historic property or district.

Pursuant to N.C.G.S. 160A-400.9(f), the State of North Carolina, its political subdivisions, agencies or instrumentalities shall be subject to the requirements for obtaining a Certificate of Appropriateness as provided in this ordinance.

(B) Application for Certificate of Appropriateness

Prior to any action to enforce a historic district or historic property ordinance, the Commission shall (1) prepare and adopt rules of procedure; and (2) prepare and adopt architectural and historic guidelines not inconsistent with this ordinance for new construction, alterations, additions, moving and demolition. The guidelines for each historic district and/or historic property may provide, subject to prior adoption of detailed standards by the Historic Preservation Commission, for a Planning Department administrative official to review and approve applications for a Certificate of Appropriateness for minor works as defined in the guidelines; provided, however, that no application for a Certificate of Appropriateness may be denied without formal action by the Historic Preservation Commission.

An application for a Certificate of Appropriateness shall be obtained from and, when completed, filed with the Burlington Planning Department. The application shall be filed no later than 15 working days prior to the next regularly scheduled meeting of the Historic Preservation Commission. Each application shall be accompanied by sketches, drawings, photographs, specifications, descriptions and/or other information of sufficient detail to clearly show the proposed move, exterior alterations, additions, changes, new construction or demolition. **(Amendment adopted May 18, 1993)**

(C) Action on Application for Certificate of Appropriateness

The Planning Department will make a reasonable attempt to identify and notify by mail the owners of any property within 100 feet of all sides of the property that is the subject of the application. The Planning Department shall transmit the application for a Certificate of Appropriateness, together with the supporting information and material, to the Historic Preservation Commission for consideration. The Historic Preservation Commission shall review and act upon the application within 75 days from the filing date of the application, otherwise, failure to act upon the application shall be deemed to constitute approval, and a Certificate of Appropriateness shall be issued. Nothing herein shall prohibit an extension of time where mutual agreement has been reached between the Historic Preservation Commission and the applicant.

Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall give the applicant and other property owners likely to be affected by the application an opportunity to be heard. In cases where the Commission deems it necessary, it may hold a public hearing concerning the application, view the premises and seek the advice of the Division of Archives and History or other expert advice. All meetings or hearings of the Commission shall be open to the public in accordance with the North Carolina Open Meetings Law, Chapter 143, Article 33C.

The Commission shall not refuse to issue a Certificate of Appropriateness except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, signs or other significant features on a historic property or in the historic district that would be incongruous with the special character of the district or a historic property.

An appeal may be taken to the Board of Adjustment from the Commission's action in granting or denying any certificate, which appeals (1) may be taken by any aggrieved party; (2) shall be taken within 30 days after the decision of the Commission; and (3) shall be in the nature of certiorari. Any appeal from the Board of Adjustment's decision in any such case shall be heard by the Superior Court of Alamance County.

The State of North Carolina and its agencies shall have a right of appeal to the North Carolina Historical Commission or any successor agency assuming its responsibilities under G.S. 121-12(a) from any decision of the Historic Preservation Commission. The North Carolina Historical Commission shall render its decision within 30 days from the date that the notice of appeal by the State is received. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Building shall be the sole principles and guidelines used in

reviewing applications of the State for Certificates of Appropriateness. The decision of the Historical Commission shall be final and binding upon both the State and the Historic Preservation Commission.

(D) Review Criteria, Guidelines and Standards

The Historic Preservation Commission shall adopt detailed Architectural and Historic Guidelines for designated historic districts and designated historic properties. These guidelines shall take into account the historic and architectural significance and visual and historic elements of properties and of structures unique to the district. In reviewing a Certificate of Appropriateness, the Commission shall consider the exterior form and appearance of any proposed addition or modification to a historic property or structure within the district in accordance with these adopted guidelines.

All adopted Architectural and Historic Guidelines shall be updated at least every five years by the Historic Preservation Commission. Amendments to the guidelines shall be considered by the Commission only at advertised public hearings. At a minimum, the guidelines shall contain criteria addressing the following factors:

a. Historic Significance or Quality:

The presence of historic quality or historical significance worthy of protection may be found in buildings, sites, structures, objects or entire districts in the city. Integrity of location, design, setting, materials, workmanship, feeling and association are important elements in determining the extent and type of protection required. Association with historic significance might take the following forms:

- (1) Events that have made a significant contribution to the broad patterns of local, state or national history;
- (2) Association with the lives of persons significant to the city, state or national history;
- (3) Embodiment of distinctive characteristics of a type, period or method of construction;
- (4) Representation of a period or method of construction of an acknowledged master;
- (5) Examples of high artistic value;



- (6) Representation of a significant and distinguishable entity whose components may lack individual distinction;
- (7) Entities that have yielded or may yield information in prehistory or local, state or national history.

(b) Exterior Form and Appearance:

Exterior features include the architectural form and style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building and the type, pattern and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of signs, exterior features shall be construed to mean the style, material, size and location of all such signs. In considering exterior form and appearance, the Commission may take into account, but is not limited to, the following elements to ensure that they are consistent with the historic or visual character of characteristics of the district:

- (1) The height of the building;
- (2) The setback and placement on lot of the building, including lot coverage and orientation;
- (3) Exterior construction materials, including textures and patterns and color;
- (4) Architectural detailing, such as lintels, cornices, brick bond, foundation materials and decorative wooden features;
- (5) Roof shapes, forms and materials;
- (6) Proportions, shapes, positioning and locations, patterns and sizes of any elements of fenestration;
- (7) General form and proportions of buildings and structures;
- (8) Appurtenant fixtures and other features such as lighting, historic signs, outdoor advertising signs or other types of signs with the exception of traffic control signs;
- (9) Structural condition and soundness;
- (10) Use of local or regional architectural traditions;
- (11) Significant archaeological features of the area; and
- (12) Effect of trees and other important landscape and natural features.

5. Conflict with Other Laws

Whenever this ordinance requires a longer waiting period or imposes other higher standards with respect to a designated historic property or district than are established under any other statute, charter provision, regulation or ordinance, this ordinance shall govern. Whenever the provisions of any other statute, charter provision, ordinance or regulation require a longer waiting period or impose other higher standards than are established under this ordinance, such other statute, charter provision, ordinance or regulation shall govern.

6. Remedies

In case any building, structure, site, area or object designated as a historic property or located within a historic district is about to be demolished (whether as the result of deliberate neglect or otherwise), materially altered, remodeled, removed or destroyed, except in compliance with this ordinance and applicable state law, the City of Burlington, the Historic Preservation Commission and any other party aggrieved by such action may institute any demolition, destruction, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such historic building, structure, site, area or object. Such remedies shall be in addition to any others authorized by state law for violation of a municipal ordinance.

7. Appropriations

The City Council is authorized to make appropriations to the Historic Preservation Commission established pursuant to this ordinance in any amount that it may determine necessary for the expenses of the operation of the Commission and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation and management of historic buildings, structures, sites, areas or objects designated as historic properties or within designated historic districts, or of land on which historic buildings or structures are located or to which they may be removed.

All lands, buildings, structures, sites, areas or objects acquired by funds appropriated by the City of Burlington shall be acquired in the name of the City of Burlington unless otherwise provided by the City Council. So long as owned by the City of Burlington, historic properties may be maintained by or under the supervision and control of the City of Burlington. However, all lands, buildings, or structures acquired by the Historic Preservation Commission from funds other than those appropriated by the City of Burlington may be acquired and held in the name of the Historic Preservation Commission, City of Burlington or both.

8. Certain Changes Not Prohibited

Nothing in this ordinance shall be construed to prevent:

- (A) The ordinary maintenance or repair of any exterior architectural feature in a historic district or of a historic property that does not involve a change in design, material or appearance thereof.
- (B) The construction, reconstruction, alteration, restoration, moving or demolition of any such feature that the building inspector or similar official shall certify is required to protect the public safety because of any unsafe or dangerous condition.
- (C) A property owner from making any use of his property not prohibited by other statutes, ordinances or regulations.
- (D) The maintenance, or in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the Historic Preservation Commission.

9 Delay in Demolition of Historic Properties and Buildings Within Historic District(s)

- (A) Upon receipt of a request for a demolition permit, the Chief Building Inspector shall deem whether or not the building, structure or site is located within a historic district or is a designated historic property; and if so, the person desiring the permit shall be notified that an application must be filed with the Historic Preservation Commission for a Certificate of Appropriateness.
- (B) An application for a Certificate of Appropriateness authorizing the relocation, demolition or destruction of a designated historic property or a building, structure or site within a historic district may not be denied except as provided in 9(D) below. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this ordinance shall be reduced by the Commission where it finds that the owner would suffer extreme hardships or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period, the Historic Preservation Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site. The Commission may enter into negotiations with the owner for the acquisition by gift, purchase, exchanges or otherwise of the property or any interest therein authorized by G.S. 160A-400.8. The City Council may exercise in accordance with G.S. 40A-3(b) its power of eminent domain to acquire designated historic properties for which a Certificate of Appropriateness for demolition has been filed. If the Historic Preservation Commission finds that the building or site within a district has no particular significance or value toward maintaining the character of a district, it shall waive all or part of such period and authorize earlier demolition or removal.

If the Commission has voted to recommend designation of a property as historic or designation of an area as a district and final designation has not been made by the City Council, the demolition or destruction of any building, site or structure located on the proposed historic property or in the proposed district may be delayed by the Commission for a period of 180 days or until the City Council takes final action on the designation, whichever occurs first.

- (C) The City Council may enact an ordinance to prevent the demolition by neglect of any designated historic property or any building or structure within an established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardships.
- (D) An application for a Certificate of Appropriateness for demolition or destruction of a building, site or structure determined by the State Historic Preservation Officer as having statewide significance according to the criteria of the National Register of Historic Places may be denied except where the Commission finds that such denial would cause the owner to suffer extreme hardship or be permanently deprived of all beneficial use or return from the property.

(10) Compliance

Compliance with the provisions of this ordinance shall be enforced by the City of Burlington. Any person violating any provision of this ordinance or failure to comply with any of its requirements shall be punishable in accordance with Section 32.18, Enforcement of the City Zoning Ordinance.

(11) Severability

The provisions of the ordinance are severable, and if any section or part shall be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance, it being the declared intent of the City Council that this ordinance would have been adopted had such invalid or unconstitutional provision not been included herein.

**Q. Water Supply Watershed Protection Regulations: (Amendment adopted March 5, 1996)**

1. Purpose

In order to protect the watershed areas and water supply lakes for the City of Burlington and to provide for a safe and potable water supply for present and future generations of Burlington residents, this subsection “Q” is hereby adopted as the Watershed Protection Regulations (hereinafter referred to as “the Regulations”) of the City of Burlington.

2. Definitions

For the purpose of these Watershed Regulations in Section 32.2:Q, the following definitions shall apply:

Balance of Watershed (BOW) – The entire land area contributing surface drainage to a specific point, the public water supply intake, minus the watershed critical area.

Buffer – An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Built-Upon Area – A surface area composed of any material that impedes or prevents natural infiltration of water into the soil. Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g., roads, parking lots, paths), decks, swimming pools, tennis courts, etc.

Chief Building Inspector – An official or designated person of the City of Burlington responsible for administration and enforcement of these Regulations.

Cluster Development – The grouping of buildings in any order to conserve land resources and provide innovation in the design of the project including minimizing stormwater runoff impacts. This term includes non-residential development as well as single-family residential and multifamily developments. For the purpose of this definition, Planned Unit Developments and mixed-use developments are considered as cluster development.

Critical Area - See Watershed Critical Area.

Development – Any land-disturbing activity that adds to or changes the amount of impervious or partially impervious cover on a land area or that otherwise decreases the infiltration of precipitation into the soil.

Existing Development – Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this overlay district, based on at least one of the following criteria:

- a. Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or,
- b. having an outstanding valid building permit as authorized by the North Carolina General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1); or,
- c. having an approved site specific site or phased development plan as authorized by the North Carolina General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1).

Existing Lot (Lot of Record) – A lot or tract of land that is part of a subdivision, a plat that has been recorded in the office of the Alamance County Register of Deeds prior to the adoption of this ordinance, or a lot on tract of land described by metes and bounds, the description of which has been so recorded prior to the adoption of this overlay district.

Hazardous Production Material (HPM) – A solid, liquid or gas that has a degree rating in health, flammability or reactivity of Class 3 or 4 as ranked by NFIPA 704 and that is used directly in research, laboratory or production processes that have as their end product materials that are not hazardous, as defined in the North Carolina State Building Code, Volume V – Fire Prevention.

Highly Toxic Material (HTM) – A material that produces a lethal dose or lethal concentration within those categories as defined by the Code of Federal Regulations (CFR): Title 29, CFR 1910.1200, as defined in the North Carolina State Building Code, Volume V – Fire Prevention.

Impervious Surface – Any material that reduces and prevents absorption of stormwater into previously undeveloped land.

Landfill – A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9, of the North Carolina General Statutes. For the purpose of this overlay district, this term does not include composting facilities.

Major Variance – A variance from the minimum statewide watershed protection rules that results in the relaxation by a factor of greater than 10 percent of any of the management requirements. Major variances shall be approved by the North Carolina Environmental Management Commission after initial review and recommendation from the City of Burlington. The Planning Department shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption.

Minor Variance – A variance from the minimum statewide watershed protection rules that results in a relaxation by a factor of up to 10 percent of any management requirements.

Non-Residential Development – All development other than residential development.

Perennial Streams – Streams located on United States Geological Survey (USCG) maps shown as solid blue lines.

Residential Development – Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses and cottages and their associated outbuildings such as garages, storage buildings and gazebos and customary home occupations.

Residuals – Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the Environmental Management Commission.

Solid Waste Management Facility – Land, personnel and equipment used in the management of solid waste as defined in Title 15A of the North Carolina Administrative Code.

Stormwater Program Manager - An official or designated person of the City of Burlington responsible for the compliance and maintenance of all stormwater regulations. **(Amendment adopted June 17, 2003)**

Structure – Anything constructed or erected including but not limited to buildings that requires location on the land or attachment to something having permanent location on the land.

Toxic Substance – Any substance or combination of substances (including disease-causing agents), that after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off-spring or other adverse health effects.

Vested Right – A right pursuant to North Carolina General Statutes 153A-344.1 and 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

Water Dependent Structure – Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water-dependent structures.

Watershed – The entire land area contributing surface drainage to a specific point (e.g., the water supply intake).

Watershed Critical Area (WCA) – The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending one mile from the normal pool elevation of a water supply reservoir or to the ridge line of the watershed (whichever comes first); or one mile upstream from the intake located directly in the stream or river (run of the river), or the ridge line of the watershed (whichever comes first).

Watershed Management Plan – A plan that documents industries that are located within watershed boundaries that use, store or manufacture chemicals that could potentially pose a threat to water quality and the response procedures for handling spills and/or discharges.

### 3. Authority and General Regulations

- a. Authority and Enactment – The Legislature of the State of North Carolina has in Chapter 160A, Article 19, Section 381 (Planning and Regulation of Development, Zoning) directed local government units to adopt regulations designed to promote the public health, safety, and general welfare of the community. The City Council for the City of Burlington does hereby ordain and enact into law that City Ordinance Section 32.2:Q is hereby repealed and deleted in its entirety and a new Section 32.2:Q is written to read as follows:



- b. Jurisdiction – The provisions of these Regulations shall apply within the areas designated as a Public Water Supply Watershed by the N.C. Environmental Management Commission and shall be defined and established on the map entitled “Watershed Protection Map of Burlington, North Carolina” (“the Watershed Map”), that is adopted simultaneously herewith. The Watershed Map and all explanatory matter contained thereon accompany and are hereby made a part of these Regulations. Watershed Critical Area boundaries are delineated on the following Alamance County Tax Maps: 2-1, 2-2, 2-3, 2-3A, 2-9, 3-22F, 3-23, 3-23A, 3-23B. These Regulations shall be permanently kept on file in the office of the City Clerk for the City of Burlington.
- c. Exceptions to Applicability
- (1) Nothing contained herein shall repeal, modify or amend any Federal or State law or regulation or any ordinance or regulation pertaining thereto except any ordinance that these Regulations specifically replace.
  - (2) It is not intended that these Regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these Regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these Regulations shall control.
  - (3) Existing development, as defined in these Regulations, is regulated under the provisions as stated in 4.a.(3)(m).  
**(Amendment adopted June 17, 2003)**
  - (4) An existing lot owned by an individual prior to the effective date of these Regulations, regardless of whether or not a vested right has been established, may be developed for single-family residential purposes without being subject to the restrictions of these Regulations.

d. Repeal of Existing Watershed Regulations – These Regulations in part carry forward by re-enactment some of the Watershed Protection Regulations of the County of Alamance, North Carolina, adopted by the Board of County Commissioners on September 20, 1993, and it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All provisions of the Watershed Regulations that are not re-enacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any regulatory provisions heretofore in effect that are now pending in any court of this State or of the United States, shall not be abated or abandoned by reason of the adoption of these Regulations, but shall be prosecuted to their finality the same as if these Regulations had not been adopted; and any and all violations of the existing Watershed Protection Regulations, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in these Regulations shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or that may heretofore have been instituted or prosecuted.

e. Remedies

(1) If any subdivision, development and/or land use is found to be in violation of these Regulations, the City Manager may initiate an action in the name of the City of Burlington, in addition to all other remedies available either at law or in equity, institute an action or proceedings to restrain or correct the violation; an action to prevent occupancy of the building, structure, or land; or an action to prevent any illegal act, conduct, business or use in or about the premises. No activity, situation, structure or land use shall be allowed within the watershed area that poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems that utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage and disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff or any other situation found to pose a threat to water quality. All remedies as outlined in Section 32.18 of this ordinance are available to address public health violations as specified above. In addition to all local remedies, the North Carolina Environmental Management Commission may assess civil penalties in accordance with North Carolina General Statute 143-215.6 (A).

(2) If the Chief Building Inspector of the City of Burlington finds that any of the provisions of these Regulations are being violated, the administrator shall notify in writing the person responsible for such violations, indicating the nature of the violations and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by these Regulations to ensure compliance with or to prevent violation of its provisions. If a ruling of the Chief Building Inspector is questioned, the aggrieved party or parties may appeal such a ruling to the Board of Adjustment within 30 days of such ruling.

- f. Severability – Should any section or provision of these Regulations be declared invalid or unconstitutional by any court or competent jurisdiction, the declaration shall not affect the validity of these Regulations as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.
- g. Effective Date – These Regulations shall take effect and be in force on March 5, 1996.

#### 4. Development Regulations

- a. Watershed Areas Described and Identified – For purposes of these Regulations, watersheds in the City of Burlington, including the area within the extraterritorial jurisdiction (ETJ), are identified as well as a WS-IV-CA Watershed Critical Area (WCA). The Great Alamance Creek Watershed is identified as a WCA. The WCA is the area extending either one mile from the normal pool elevation of a water supply reservoir or to the ridge line of the watershed (whichever comes first); or one mile up stream from the intake located directly in the stream or river (run of the river), or the ridge line of the watershed (whichever comes first). The Balance of Watershed (BOW) is defined as the entire land area contributing surface drainage to a specific point, the public water supply intake, minus the Watershed Critical Area. In order to maintain a predominantly undeveloped land use density pattern in the Watershed Critical Area, single-family residential uses shall be allowed at a maximum of one dwelling unit per two acres (one dwelling unit/two acres). All other residential and non-residential development shall be allowed at a maximum six percent built-upon area. A high-density option exists when water and sewer services are available. **(Amendment adopted September 2, 2003)**

(1) Allowed Uses:

- Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993, shall maintain a minimum 10-foot vegetative buffer or equivalent control as determined by the Soil and Water Conservation Commission along all perennial waters indicated on the most recent versions of the United States Geological Survey (USGS) 1:24,000 (7.5 minute) scale topo maps or as determined by local government studies. Animal operations deemed permitted under state law 15A NCAC 211.02171 as recommended by the Soil and Water Conservation Commission.
- Single-family residential development.
- Multifamily residential development.
- Non-residential development:
  - Institutional
  - Educational
  - Religious
  - Office
  - Recreational

(2) Prohibited Uses:

- Sites for land application of residuals or petroleum contaminated soils.
- Landfills, incinerators and waste processors.
- Commercial use that sells, stores or distributes motor fuel or other hazardous materials.
- Solid waste management facilities.
- Airports.
- Industry.
- Metal salvage facilities including junkyards.
- Manufacturing, use, or storage of any hazardous production material (HPM) or highly toxic material (HTM) or any material or substance determined by the City Council of the City of Burlington to be injurious to the health, safety or welfare of the City's residents due to the explosive, flammable or toxic characteristics of the materials.
- Package treatment plants and community sewage facilities, except for subsurface septic tanks. These facilities are allowed only if the Alamance County Health Department determines that a public health problem can be alleviated by constructing such facilities. Note: This provision does not prohibit the extension of municipal sewer lines (public) into the watershed critical area.
- Underground fuel or chemical storage tanks.

(3) Density and Built-Upon Limits: (Amendment adopted June 17, 2003)

<b>Watershed</b>	<b>Low Density Option</b>	<b>High Density Option*</b>
<b>Lake Mackintosh</b>	<b>1 DU/2 acres or 6%</b>	<b>1.5 DU/1 acre or 24%</b>
<b>* Requires public water, sewer and engineered storm water controls for 1" rainfall</b>		

**Notes: DU = Dwelling unit(s); percentage (%) refers to built-upon area of the lot, parcel or tract.**

(a) Single-Family Residential -  
**Low-Density Option:** Development shall not exceed one dwelling unit of single-family detached residential development per two acres (1 dwelling unit/2 acres) on a project-by-project basis. No residential lot shall be less than two acres (80,000 square feet excluding roadway right-of-way) except within an approved, planned cluster development.

**High-Density Option:** Development shall not be allowed to exceed one and half dwelling units of single-family detached residential development per one acre (1.5 dwelling unit/1 acre) on a project-by-project basis. In order to allow the high-density option to be utilized, the following requirements must be met: **(Amendment adopted June 17, 2003)**

- Requires public water
- Requires public sewer
- Requires engineered stormwater controls

Minimum Lot Size - Within 400 feet of the normal pool level, a minimum lot size of one acre is required under the high-density option. **(Amendment adopted June 17, 2003)**

- (b) All Other Residential and Non-Residential – Development shall not exceed six percent built-upon area on a project-by-project basis under a low-density option or 24 percent built-upon area under the high-density option. For the purpose of calculating a built-upon area, total project area shall include total acreage in the tract on which the project is to be developed. **(Amendment adopted June 17, 2003)**
- (c) Existing Development – Existing development is regulated under the provisions as stated in 4.a.(3)(m). **(Amendment adopted June 17, 2003)**
- (d) Above-Ground Storage Tanks: A spill containment plan is required for all new above-ground storage tanks with accumulative capacity of over 250 gallons.
- (e) Runoff Control: Runoff control is required for development using the high-density option. The runoff control shall be by use of a wet detention pond or other best management practice (i.e., retention pond, natural infiltration area, filter basin, etc.) meeting the performance standards of control of the first one inch of rainfall and removal of 85 percent total suspended solids (TSS) and meeting the guidelines in the North Carolina Department of Environment and Natural Resources (NCDENR) Stormwater Best Management Practices Guide. A North Carolina registered professional with qualifications appropriate for the type of system required shall design all stormwater control structures. These professionals are defined as professional engineers, landscape architect, to the extent that the North Carolina General Statutes, Chapter 89A, allow and land surveyors, to the extent that the design represents incidental drainage within a subdivision as provided in N.C.G.S. 89 (C)-3(7). **(Amendment adopted June 17, 2003)**
- (f) Maintenance Responsibilities: **(Amendment adopted June 17, 2003)**
  - 1) When runoff control structures serve more than one lot, a homeowners' association or binding contract for the purpose of maintenance shall be required.

- 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 Enforcement Officer shall have the responsibility to inspect runoff control structures annually, to record the results on forms approved or supplied by the North Carolina Division of Water Quality and to notify the responsible property owner of homeowners' association when maintenance or repairs are required.

All required repairs and maintenance shall be performed within 90 days after such notice. In case of failure by the responsible party to perform the required maintenance or repairs within the stated period, the jurisdiction may perform such maintenance or repairs and recover all costs plus an additional 10 percent from the property owner or homeowners' association.

- (g) Stream Buffer – A 50-foot stream buffer measured from each bank is required along all perennial streams when utilizing the low-density option. A 100-foot stream buffer measured from each bank is required along all perennial streams when utilizing the high-density option. **(Amendment adopted September 2, 2003)**
- (h) Lake Buffer – A 100-foot wide natural buffer shall be maintained around all water supply reservoirs, measured from the normal pool elevation outward. Desirable artificial streambank or shoreline stabilization is permitted. No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of North Carolina Department of Environment and Natural Resources (NCDENR) Stormwater Best Management Practices.
- (i) Cluster Development – Clustering of development is encouraged and allowed in the watershed under the following conditions:

- 1) Minimum lot sizes are not applicable to single-family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-family detached development in 4.a.(3)(a) above. Density or built-upon areas for the project shall not exceed that allowed for the critical area. **(Amendment adopted June 17, 2003)**
  - 2) All built-upon areas shall be designed and located to minimize runoff impact to the receiving waters and minimize concentrated stormwater flow.
  - 3) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners' association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.
- (j) Site Plan Requirements – Site plans are required for all development, including single-family residences. Site plans should be submitted to the Chief Building Inspector or Planning Department of the City of Burlington for approval. A permit will not be issued until the site plan is approved. Site plans for development within the Watershed Critical Area shall meet the following requirements:
- 1) Five copies of site plans shall be submitted on 18" x 24" sheets.
  - 2) Plan shall be to scale no smaller than 1" = 100'.
  - 3) Plan shall show the following:
    - Title block (development name, owner/developer, township, scale and tax map number).
    - Property lines.



- North arrow.
- Vicinity map.
- Legend.
- Location of existing and proposed structures and all other impervious improvements.
- Site data (total acres, total impervious area, total number of lots, etc.)
- Easements – location width and purpose.
- Location of ponds, lakes and perennial streams.
- Location and elevation of 100-year flood plain and marginal land.
- Location of septic tank and drainage field or public utilities.
- Location of well(s) and public utilities.
- Sedimentation and erosion control measures.
- Representative topography (City of Burlington topographic maps).
- Front, side and rear yard requirements.
- Surveyor or engineer's seal.
- Lake and stream buffers.
- Date.

(k) Rules Governing the Interpretation of Watershed Area Boundaries – Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

- 1) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.
- 2) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the City as evidence that one or more properties along these boundaries do not lie within the watershed area.

- 3) Where the watershed area boundaries lie at a scaled distance more than 25 feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the Watershed Map.
- 4) Where the watershed area boundaries lie at a scaled distance less than 25 feet from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.

(l) Application of Regulations

- 1) No building or land shall hereafter be used and no development shall take place except in conformity with the Regulations herein specified for the watershed area in which it is located.
- 2) No area required for the purpose of complying with the provisions of these Regulations shall be included in the area determining compliance required for another building.
- 3) Every residential building hereafter erected, moved or structurally altered shall be located on a lot that conforms to the Regulations herein specified, except as permitted in 4.a.(3)(m).  
**(Amendment adopted June 17, 2003)**
- 4) If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

(m) Existing Development – Any existing development, as defined in these Regulations, may be continued and maintained subject to the provisions provided herein:

- 1) Expansion of Existing Development – Expansions to structures classified as existing development must meet the requirements of this ordinance. The total built-upon area added to a lot after the effective date of these Regulations may not exceed the built-upon requirements of the Watershed Critical Area (WCA) zone. The built-upon area of the existing development is not required to be included in the built-upon area calculations.

- 2) Reconstruction of Buildings or Built-Upon Areas – Any existing building or built-upon area not in conformance with the restrictions of these Regulations that have been damaged or removed may be repaired and/or reconstructed in accordance with the provisions of Section 32.14 of this ordinance. Additionally, the total amount of space devoted to a built-upon area may not be increased unless the additional built-upon area meets the expansion requirements of 4.a.(3)(m) of these Regulations. **(Amendment adopted June 17, 2003)**
- 3) Uses of Land – This category consists of uses existing at the time of adoption of these Regulations where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as regulated in Section 32.14:E of this ordinance.
- 4) Vacant Lots – This category consists of vacant lots for which plats or deeds have been recorded in accordance with the City of Burlington Subdivision Regulations in the office of the Alamance County Register of Deeds. A lot may be used for any of the uses allowed in the watershed area in which it is located.

(n) Watershed Protection Permit

- 1) No building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Chief Building Inspector or Code Enforcement Officer.
- 2) No Watershed Protection Permit shall be issued except in conformity with the provisions of these Regulations.

- 3) Watershed Protection Permit applications shall be filed with the Chief Building Inspector. The application shall include a completed application form and supporting documentation.
  - 4) Prior to the issuance of a Watershed Protection Permit, the Chief Building Inspector may consult with qualified personnel for assistance to determine if the application meets the requirements of these Regulations.
  - 5) A Watershed Protection Permit shall expire if a building permit or Watershed Occupancy Permit for such use is not obtained by the applicant within 12 months from the date of issuance.
- (o) Building Permit Required – No permit required under the North Carolina State Building Code shall be issued for any activity until a Watershed Protection Permit is issued.
- (p) Watershed Protection Occupancy Permit
- 1) The Chief Building Inspector in the Inspections Department shall issue a Watershed Protection Occupancy Permit certifying that all requirements of these Regulations have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.
  - 2) A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within 10 days after construction is approved by the Inspections Department.
  - 3) When a change in the use of land or use of an existing building occurs, the Chief Building Inspector shall issue a Watershed Protection Occupancy Permit certifying that all requirements of these Regulations have been met coincident with the Watershed Protection Permit.

- 4) No building or structure that has been erected, moved, or structurally altered may be occupied until the Chief Building Inspector in the Inspections Department has approved and issued a Watershed Protection Occupancy Permit.
- 5) If the Watershed Protection Occupancy Permit is denied, the Chief Building Inspector in the Inspections Department shall notify the applicant in writing within 30 days stating the reasons for denial.

## 5. Administration

- a. Chief Building Inspector, Planning Department and Duties Thereof – It shall be the duty of the Chief Building Inspector to administer and enforce the provisions of these Regulations as follows:
  - (1) The Chief Building Inspector shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours.
  - (2) The Planning Department shall keep records of all amendments to the local Water Supply Watershed Protection Regulations and shall provide copies of all amendments upon adoption to the Water Quality Section of the Division of Environmental Management.
  - (3) The Chief Building Inspector is granted the authority to administer and enforce the provisions of these Regulations, exercising in the fulfillment of his responsibility the full police power of the City of Burlington. The Chief Building Inspector, or his duly authorized representative, may enter any building, structure or premises as provided by law to perform any duty imposed upon him by these Regulations.
  - (4) The Chief Building Inspector shall keep a record of variances to the local Water Supply Watershed Protection Regulations. This record shall be submitted for each calendar year to the Water Quality Section of the Division of Environmental Management on or before January 1<sup>st</sup> of the following year.

- (5) The Stormwater Program Manager shall be responsible for compliance and maintenance of all stormwater controls that are developed pertaining to this ordinance. **(Amendment adopted June 17, 2003)**
- b. Appeal from the Chief Building Inspector – Any order, requirement, decision or determination made by the Chief Building Inspector may be appealed to and decided by the Board of Adjustment within 30 days. **(Amendment adopted June 17, 2003)**
- c. Changes and Amendments – After receiving a recommendation from the City of Burlington Planning and Zoning Commission, the City Council may, on its own motion or on petition after public notice and hearing, amend, supplement, change or modify the Watershed Regulations and restrictions as described herein. No amendments, supplements or changes shall violate the watershed protection rules.
- d. Watershed Management Plan – The City of Burlington is included in the Alamance County Watershed Management Plan as outlined in Article 400 of the Alamance County Watershed Protection Ordinance.
- e. Hazardous Materials Inventory – An inventory of hazardous materials as applicable to the Alamance County Watershed Management Plan contained in the Alamance County Watershed Protection Ordinance shall be kept in the Planning Department of the City of Burlington and the Alamance County Emergency Management Office.

R. **Manufactured Housing Overlay District:** (Repealed September 18, 2001)