

Summary of Changes  
Town of Stem Unified Development Ordinance  
June 20, 2022 Public Hearings

Combined multiple Town of Stem development ordinances into the Unified Development Ordinance (UDO).

Stem Zoning Ordinance (last revised July 19, 2021)

Stem Watershed Protection Ordinance (last revised July 19, 2021)

Stem Watershed Ordinance for New Development (last revised June 21, 2012)

All sections brought into a uniform numbering/lettering system.

Brought all documents into compliance with N.C.G.S. 160D.

Updated references to N.C.G.S. with new citations

Removed references to criminal penalties

Replaced all instances of Conditional Use Permits with Special Use Permits

Updated Mobile Home regulations in compliance with N.C.G.S. 160D

Added section 8.11 – Temporary Healthcare Structures

Added section 9.01B – Subdivision into 5 or fewer properties is an administrative procedure; subdivision into 6 or more properties requires a Special Use Permit

Created two new land use districts.

MU - Mixed Use Residential and Commercial - To allow for higher density multifamily housing and more parking intensive business opportunities than are feasible in the downtown core.

OC - Open Space & Conservation - To preserve and protect environmentally sensitive lands, or properties already under public or private ownership otherwise restricted by conservation easements.

Revised the land use table.

Conditional Use Permit category removed

Square footage now a factor in district uses (for instance, General Retail up to 10,000 square feet is a Permitted use in CC and MU districts while General Retail over 10,000 square feet is a Permitted use only in MU and requires a Special Use Permit in CC)

Complete replacement of Article 10 – Sign Regulations.

Merged the Definitions sections of all development ordinances in Article 21 – Definitions.



# Town of Stem Unified Development Ordinance

Town of Stem  
North  
Carolina

June 20, 2022

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## **Article 1. General and Legal Provisions**

### **1.01 Authority**

This Ordinance is adopted by the Town of Stem pursuant to authority granted by the North Carolina General Statutes 160D-201 and N.C.G.S. 160D-103, to promote the public health safety, morals, and general welfare of the residents of the Town.

### **1.02 Title**

This ordinance shall be known as the “Unified Development Ordinance of the Town of Stem, North Carolina” and may be cited as “this Ordinance”.

### **1.03 Purpose**

This ordinance was prepared in accordance with the Stem Comprehensive Plan as defined in this ordinance. These regulations are made with consideration for the character of a particular district and its suitability for particular uses; and with a view to preserving property values and promoting compatibility between land uses. Its purpose is to promote the public health, safety, morals, and welfare, and to:

- A. Provide adequate light and air;
- B. Prevent overcrowding of land;
- C. Avoid undue concentration of population;
- D. Lessen street congestion;
- E. Secure public safety from fire, panic, and dangers;
- F. Facilitate efficient and adequate provision of transportation, water, sewer, schools, parks, and other public services.

### **1.04 Jurisdiction**

Unless exempted by state law or this ordinance, this ordinance shall apply to lands and structures within the Town of Stem corporate limits and any extraterritorial jurisdiction (ETJ) boundary established pursuant to state law.

### **1.05 Applicability**

Except as provided under Article 2 (Vested Rights), no person may use or occupy any land or building or authorize the use or occupancy of land or building under his or her control except in compliance with this ordinance.

### **1.06 Effective Date**

The provisions in this ordinance shall become effective upon adoption.

### **1.07 Statutes of Limitation**

A cause of action challenging the validity of this ordinance or amendment shall be brought within the time period prescribed by N.C.G.S. 160D-1405.

### **1.08 Consistency with Comprehensive Plan**

This ordinance was made in accordance with the Town of Stem Comprehensive Plan. The comprehensive plan includes any official document the town adopts to manage any aspect of development. The provisions of this ordinance were found to be consistent with one or more of the following:

- A. The policies of the adopted comprehensive development plan;
- B. An official future land use map;
- C. A comprehensive transportation plan;
- D. Any adopted small area plans;
- E. The purpose statements in these or other development regulations.

### **1.09 Minimum Requirements**

- A. The provisions of this ordinance are the minimum requirements necessary to carry out the ordinance's stated purpose and intent.
- B. In addition to the requirements of this ordinance, all uses and development must comply with other applicable Town, state, and federal regulations.
- C. All references to other Town, state, or federal regulations are for informational purposes only and do not constitute a complete list of such regulations.

### **1.10 Conflicting Provisions**

#### **A. Conflicts with State or Federal Law**

If the provisions of this ordinance are inconsistent with those of state or federal law, the more restrictive provision will control to the extent permitted by law. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.

#### **B. Conflicts with Other Town Regulations**

If the provisions of this ordinance are inconsistent with one another or conflict with provisions in other ordinances of the Town, the more restrictive provision will control. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.

#### **C. Conflicts with Private Agreements and Covenants**

This development ordinance is not intended to interfere with or annul any easement, covenant, deed restriction or other agreement between private parties. But, if this ordinance imposes a greater restriction than imposed by a private agreement, this ordinance will control. Nothing in this ordinance shall be construed to render private agreements not contrary to this ordinance invalid.

### **1.11 Existing Permits and Developments**

This ordinance shall not affect the rights of property owners who have lawfully established, and continuously maintained in a lawful manner, a use prior to the adoption of this ordinance or amendment that otherwise renders such use unlawful. A nonconforming use or structure that was recognized prior to the adoption of this ordinance shall continue to operate under the provision of law under which it was recognized so long as the nonconforming use or structure is not in violation of such provision of law, the adoption of this ordinance notwithstanding. Nothing in this ordinance prohibits the voluntary

compliance with any future ordinance, regulation, or incentive.

**1.12 Severability**

The sections, paragraphs, sentences, phrases, and clauses of this ordinance are severable. If any part of this ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, such declaration shall not affect the remaining parts since the same would have been enacted without the incorporation of such unconstitutional or invalid section, paragraph, sentence, clause or phrase.

**1.13 Repeal of Conflicting Ordinance**

Any part of an ordinance of the Town of Stem that are in conflict or inconsistent with this ordinance are repealed or superseded to the extent necessary to give this ordinance full force and effect.

## **Article 2. Vested Rights & Nonconformities**

### **2.01 Generally**

- A. No amendment to this ordinance or the zoning map shall be applicable without the consent of the landowner with regard to buildings and uses for which a vested right has been established and remains valid.
- B. A vested right shall not preclude the application of overlay zoning that imposes additional requirements that do not affect the allowable types or intensity of use, or that are general and applicable to all property subject to town regulations. Otherwise, new or amended regulations shall become effective upon expiration or termination of the vested right in accordance with this Ordinance.

### **2.02 Establishment**

A vested right shall be established as follows:

- A. Common Law: A quasi-judicial finding by the Zoning Administrator or a judicial finding that substantial expenditures of resources (time, labor, money) based on good faith reliance upon having received a valid permit to precede with the development has been incurred by the property owner. Decisions made by the Zoning Administrator may be appealed to the Board of Adjustment.
- B. Building Permit: A valid building permit issued prior to the effective date of the ordinance effecting the change, so long as the permit remains valid and unexpired pursuant to N.C.G.S. 160D-1110.
- C. Statutory Vested Right: A “Site-specific Development Plan” approved in accordance with N.C.G.S. 160D-108.

### **2.03 Term of a Vested Right**

- A. A statutory vested right shall remain vested for 2 years from the date of approval. Prior to the end of the initial vesting period, the landowner may ask the Town Board for extensions in 2-year increments. The total vesting period shall not exceed six years.
- B. A statutory vested right is not a personal right, but shall attach to and run with the subject property. After approval of a site-specific development plan, all successors to the original landowner shall be entitled to exercise such right while in effect.

### **2.04 Termination of Statutory Vested Rights**

A statutory vested right shall terminate:

- A. At the end of the applicable vesting period with respect to buildings, the uses for which no valid building permit applications have been filed.
- B. With the written consent of the affected landowner.
- C. Upon finding by the Town Board, by ordinance after a public notice and hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if not corrected, would pose serious threat to the public health, safety, or welfare if the project were to proceed as

contemplated in the site specific development plan.

- D. Upon compensating the affected landowner for all costs, expenses, and other losses incurred by the landowner, including, but not limiting to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such actions;
- E. Upon findings by the Town Board, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or;
- F. Upon the enactment or promulgation of a State or Federal law that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

## **2.05 Nonconformities**

- A. Applicability: This section applies to any nonconformity that was legally established and operated on or before these regulations or amendments were adopted.
- B. Continuation: On the effective date of this Ordinance, a nonconformity that was lawfully established, operated, or commenced in accordance with the provisions of all ordinances, statutes, or regulations in effect at that time may continue subject to this Article.
- C. Discontinuance: If a nonconformity is discontinued for 180 consecutive days or for 18 months in any three-year period, any future use of the premises shall conform with this ordinance. Discontinuance shall terminate the right to continue the nonconformity.

## **2.06 Nonconforming Uses**

- A. Continuance: The lawful use of any structure existing as of the effective date of this ordinance may be continued and extended throughout the structure. However, any alterations or additions to the structure shall conform to existing law.
- B. Enlargement: A conforming structure in which a nonconforming use is operated shall not be enlarged or extended except as required by law or ordinance.
- C. Change to Conforming Use: Any nonconforming use may be changed to a use conforming to the regulations established for the district in which it is located. Thereafter, any future use shall conform to these regulations.
- D. Changes to Current Use: Any changes to a nonconforming use shall bring the use more into conformance with regulations of this ordinance. No change shall increase in the minimum number of off-street parking and loading spaces required.

## **2.07 Nonconforming Lots**

A substandard lot shall comply with the yard, buffer, setback, and bulk regulations of the zoning district in which the lot is located.



## **2.08 Nonconforming Structures**

- A. Continuanace of Nonconforming Structures: Subject to the limitations in this section, any nonconforming structure may be occupied, operated, and maintained in a state of good repair.
- B. Enlargement: A nonconforming structure in which only permitted uses are operated may be enlarged or extended if the enlargement or extension can be made in compliance with the provisions of this ordinance established for structures in the district in which the nonconforming structure is located. Such enlargement shall also be subject to all other applicable ordinances.

## **2.09 Nonconforming Sites as to Development Standards**

- A. Purpose: The ordinance establishes various development standards for individual lots. Consequently, many development sites do not meet current requirements for parking lot standards, landscaping, and other design specifications. This section requires that such nonconforming sites be brought into conformance with the site development standards prescribed by this ordinance.
- B. Authority to Continue: Any lawfully existing nonconforming site may be continued so long as it remains otherwise lawful subject to this section.
- C. Extension: A conforming use located on a nonconforming site shall not be expanded until the site is brought into conformance with the provisions of this ordinance. However, single-family residential structures that are located on a legally nonconforming site with respect to required yards, areas, or height may be structurally altered or enlarged, providing the portion of the structure that is altered or enlarged conforms with the provisions of this ordinance.
- D. Relocations: No structure shall be relocated to a nonconforming site until the site is brought into conformance with the provisions of this ordinance.
- E. Change in Use: No existing structure located on a nonconforming site shall be changed from one use to another use until the site is brought into conformance with this ordinance.

## **2.10 Damage or Destruction**

- A. The right to operate and maintain any nonconformity, except single-family dwellings, shall terminate whenever the nonconforming structure is damaged from any cause, and the cost of repairing such damage exceeds 25 percent of the replacement cost of such structure on the date of such damage.
- B. A nonconforming single-family dwelling unit that is destroyed or damaged more than 25 percent of the replacement cost may be rebuilt, if a building permit is issued within 1 year of the date of such damage or destruction. The Zoning Administrator shall require the submission of sufficient evidence to verify the date of damage or destruction.

## **Article 3. Administrative Authorities**

### **3.01 Board of Commissioners**

#### A. Generally

The governing board of the Town of Stem may delegate administrative authority when unassigned by this Ordinance.

#### B. Specific Powers

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

- 1) To adopt and amend the comprehensive plan;
- 2) To adopt and amend this ordinance and the official zoning map;
- 3) To designate a planning board and board of adjustment and appoint its members;
- 4) To review and approve applications for a Special Use Permit
- 5) To approve or deny site specific development plans; and
- 6) To take other actions that are reasonable and in the public interest.

### **3.02 Planning Board**

#### A. Generally

The Planning Board of the Town of Stem shall exercise specific powers enumerated in this Ordinance.

#### B. Specific Powers

The Planning Board shall have the following duties and powers:

- 1) To develop and maintain the comprehensive plan;
- 2) To review and advise on proposed text and map amendments;
- 3) To review and advise on applications for a Special Use Permit;
- 4) To function as the Board of Adjustment;
- 5) Other duties assigned by the Board of Commissioners.

### **3.03 Board of Adjustment**

#### A. Establishment

The board of adjustment is hereby established pursuant to N.C.G.S. 160D-302 and this section.

#### B. Membership, Term, Vacancies

- 1) Members: The members of the Planning Board shall constitute the membership of the Board of Adjustment. The Board of Adjustment shall be composed of at least 5 members. If the

town exercises extraterritorial powers in accordance with state law, proportional ETJ representation shall be provided pursuant to GS 160D-302. Alternates may be appointed to serve in the absence of a regular member. ETJ representation shall be appointed by the County Board of Commissioners pursuant to state law.

- 2) Terms: Seats on the Board of Adjustment shall have a term of 4 years.
- 3) Vacancies: Appointments to fill vacancies shall be for the unexpired term of the vacated seat on the board.

#### C. Powers and Duties

The Board of Adjustment shall have the following duties:

- 1) To review and decide applications for administrative appeals;
- 2) To review and decide applications for variances;
- 3) To perform other duties as directed by the Board of Commissioners.

#### D. Meetings and Record

- 1) Meetings: The Board of Adjustment shall meet as needed to review an application that requires its review. However, the Board of Adjustment shall meet within 45 days after an application is filed with the Zoning Administrator.
- 2) Quorum: The presence of four members of the board of adjustment shall constitute a quorum. No official action shall occur without a quorum.
- 3) Voting: A four-fifth majority vote of qualified board members is required to rule in favor of a variance application. Only vacant seats and members with an impermissible conflict of interest may be disqualified from voting.
- 4) Records: The Board of Adjustment shall keep accurate minutes of its meetings and prepare written report of its findings and conclusions, which shall be a public record.

#### E. Rules of Procedure

The Board of Adjustment may adopt rules of procedures for the conduct of its business consistent with state law and this ordinance.

### **3.04 Zoning Administrator**

A Zoning Administrator shall be appointed by the Board of Commissioners to administer and enforce this ordinance. The Zoning Administrator may delegate duties to subordinates or designees. Any officer charged with administering or enforcing any part of this ordinance is referred to as the Zoning Administrator.

### **3.05 Table of Reviewing Authority**

The following table is a summary of the roles each administrative authority have in the zoning decision-making process:

Procedure	Zoning Administrator	Planning Board	Board of Commissioners	Board of Adjustments
Zoning Permit	Administrative			Appeal
Certificate of Compliance	Administrative			Appeal
Enforcement	Administrative			Appeal
Interpretation	Administrative			Appeal
Administrative Appeal				Quasi-judicial
Variance				Quasi-judicial*
Zoning Map Interpretation	Advisory			Quasi-judicial
Special Use Permit	Advisory	Advisory	Quasi-judicial	
Site Specific Development Plan	Advisory		Quasi-judicial	
Text Amendment	Advisory	Advisory	Legislative	
Official Zoning Map (Rezoning)	Advisory	Advisory	Legislative	

## **Article 4. Administrative Procedures**

The purpose of this chapter is to establish procedures for filing and processing applications for zoning approval. This article is formatted to allow users to quickly and efficiently ascertain the steps involved in obtaining zoning approval—from initiating the review process, to reviewing application for compliance with substantive standards, to taking final action on the application, and finally, to appealing the final action. The intent is to ensure all proposed uses will comply with this ordinance.

### **4.01 Initiation**

A. Applicants wishing to develop a property into more than three parcels must contact the Zoning Administrator before Application Submission to determine if a pre-submittal conference will be required. A pre-submittal conference may involve relevant third parties including the Southern Granville Water and Sewer Authority, the Tar River Land Conservancy, the Stem Volunteer Fire Department, the North Carolina Department of Transportation, or others not named here. Fees charged by third parties for a pre-submittal conference will be the responsibility of the applicant.

#### **B. Application Submission**

Applicants may initiate zoning review by filing an application with the Zoning Administrator. Applications shall be submitted on a form and in the number required by the Town. Applications shall include the following information:

- 1) Contact information: Name, address, and phone number of applicant, property owner, and authorized agent as applicable.
- 2) Proof of authority to file: A deed, valid lease, contract, option, written statement or other documentation to show standing to file an application pursuant to N.C.G.S.160D-101 and this ordinance.
- 3) Application Fees: Full payment of application fees as established by the Board of Commissioners in the official Town fee schedule.
- 4) Property location: A map, address, PIN, or other descriptions that will allow the Town to accurately ascertain the affected property location.
- 5) Site Plan: A plat, map, or drawing showing the existing and proposed location, setback, and dimensions of land uses, structures, vehicular use areas, and other impervious surfaces, buffers and open space, and other site details needed to show compliance with this ordinance.
- 6) Additional information: Additional information specified on the application form or required by the Zoning Administrator to show compliance with this ordinance.

#### **C. Application Fees**

The Board of Commissioners shall adopt application fees sufficient to offset the costs of processing and reviewing the application. The fees shall be posted on the town website.

#### **D. Application Sufficiency**

- 1) **Review for Sufficiency:** The Zoning Administrator shall review the application to determine compliance with the submission requirements for the application. The Zoning Administrator shall notify the applicant of sufficiency within 10 working days.
- 2) **Findings:** If the Zoning Administrator finds that the application is sufficient, copies shall be referred to the appropriate reviewing authorities. If the application is not sufficient, the zoning administrator shall inform the applicant of the deficiencies in writing.
- 3) **Review Deadline:** Application review deadlines shall begin when the Zoning Administrator determines that the application is sufficient, not on the date of submission. Deadlines may be extended upon mutual written agreement by the applicant and the decision-making authority. Deadlines that fall on a non working day recognized by the Town shall extend to the next working day.
- 4) **Appeal:** The applicant may file an appeal of the Zoning Administrator’s decision to the Board of Adjustment within 30 days after the decision is made.

#### 4.02 Technical Review

After an application is found to be sufficient, the Zoning Administrator shall review it for compliance with the technical standards of this ordinance. The Zoning Administrator may consult with the town attorney, engineer, or other competent town, county, state authority or professional as needed to determine compliance. If the application requires a public hearing, a written advisory report of the findings shall be presented at the hearing.

#### 4.03 Notice of Hearings

##### A. Notice Requirements

A public notice shall precede all public hearings pursuant to this section. However, if inconsistency exists between this ordinance and state statute, the state statute governs. The following table establishes notice requirements for public review hearings:

Procedure	Published Notice	Mailed Notice	Posted Notice
Administrative Appeal		✓	✓
Variance		✓	✓
Text Amendment	✓	✓	
Official Zoning Map (Rezoning)	✓	✓	✓
Conditional District		✓	✓
Special Use Permit		✓	✓
Site specific development plan		✓	✓

##### B. Specific Notice Requirements

- 1) **Published notice:** A notice shall be published in an official newspaper of general circulation in the affected area for 2 successive weeks. The initial notice shall appear not more than

25 days or less than 10 days before the date of the hearing. The next notice shall appear during the next calendar week.

- 2) Posted notice: If required, a water-proofed sign shall be posted on the property which is the subject of the application in a location clearly visible and legible from the street, either on the lot or an adjacent right-of-way. The sign shall be posted at least 10 days before the date of the public hearing and shall remain posted up to the date of the hearing.
- 3) Mailed notice: A mailed notice shall be sent to the applicant and to any other adjoining and nearby property owners within 1000 feet, as specified in this ordinance or otherwise by law for the type of application. Applicant's notice shall be sent certified mail. Name and address of property owners shall be determined from the latest county tax listing. Notice shall be deposited in the mail at least 10 days but not more than 25 days before the date of the public hearing.

#### C. Contents of Notice

The notice shall inform interested parties of the date, time, location, and subject of the application and shall state at least the following:

##### 1) Published or Mailed Notice

- a) Reasonable identification of subject property (map, description, PIN, etc.)
- b) A general description of the proposed action
- c) The current and proposed zoning district, if applicable
- d) Time, date, location of hearing
- e) Rights to attend or speak at hearing
- f) Name and phone number of person to contact for more information

##### 2) Posted Notice

- a) Type of application;
- b) The time, date and location of the public hearing; and
- c) A phone number to contact the Town for more information.

#### D. Certification

At the hearing, the Zoning Administrator shall certify that the required notices were given and such certificate will be deemed conclusive in the absence of fraud.

#### E. Action Consistent with Notice

After the public hearing, the reviewing body may take any action on the application that is consistent with the notice given, including approval of the application, as proposed or with conditions, or denial of the application.

### 4.04 Legislative Hearings

#### A. Purpose

Legislative hearings provide the public with an opportunity to be heard consistent with the procedures established by the Board of Commissioners and consistent with this section and state law. Legislative hearings are required to establish new policies or regulations, such as zoning text amendments or zoning map amendments.

**B. Applicability**

This section applies specifically to amendments to this ordinance and the Official Zoning Map.

**C. Required hearings**

The Board of Commissioners shall hold a public hearing before taking final action on any amendment. Notice shall be provided pursuant to Section 4.03.

**D. Conduct of Hearing**

Any person may appear and comment in accordance with this ordinance and state law. The Board of Commissioners may adopt additional rules to conduct hearings that do not conflict with this ordinance and state law.

**E. Record of Proceedings**

The presiding body shall take minutes of the proceedings by any appropriate means consistent with state law. The record shall include a summary of findings and conclusions. The Zoning Administrator shall make such records available for public review. The Town Board may set fees to recover the cost of duplicating records.

**F. Conflict of Interest**

No member of the Board of Commissioners or any advisory board shall vote on a zoning amendment where the outcome of the matter is reasonably likely to have a direct, substantial, and readily identifiable financial impact on that member or on a member of their immediate family.

**4.05 Quasi-judicial Hearings**

**A. Purpose**

Quasi-judicial hearings are held to protect individual due process rights in the decision-making process. Quasi-judicial proceedings shall protect affected parties' right to fair and impartial decision-making. These decisions involve two key elements: (1) the findings of facts regarding specific applications; and (2) the exercise of judgment in applying the standards of this ordinance.

**B. Applicability**

This section applies to use permits, variances, administrative appeals, and other quasi-judicial decisions defined by this ordinance or state law.

**C. Required hearing**

The decision-making body shall conduct a quasi-judicial hearing to receive and review evidence relevant to making the appropriate findings. Notice shall be provided pursuant to Section 4.03.



#### D. Conduct of Hearing

Hearings shall be conducted in a “court-like” fashion. The decision-making body shall act as a panel of judges. Any competent person may present evidence relevant to the findings required in this ordinance. Each speaker shall present testimony under oath and is subject to cross-examination.

The decision-making body may adopt additional rules to conduct its proceedings consistent with this ordinance and state law.

#### E. Findings

All findings shall be based on facts supported by relevant, substantial, and competent evidence presented at the hearing. Evidence not presented at the public hearing shall not be considered. A written statement of findings shall be adopted with all quasi-judicial decisions.

#### F. Conflict of Interest

No member of a board exercising a quasi-judicial function shall participate or vote on any matter that would violate a person’s right to an impartial decision-maker. Impermissible conflicts of interest apply to members with:

- 1) A fixed opinion held prior to the meeting that is not susceptible to change;
- 2) Undisclosed ex parte communication;
- 3) A close familial, business, or other association with an affected party; or
- 4) A financial interest in the outcome of the case.

#### G. Presentation of Evidence

The applicant, the Town, and any person who would have standing to appeal the decision shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Board. Objections regarding jurisdictional and evidentiary hearing issues, including but not limited to, the timeliness of an appeal or the standing of a party, may be made to the Board. The Board Chair shall rule on any objections and the Chair’s ruling may be appealed to the full Board. These rulings are also subject to judicial review pursuant to N.C.G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

### **4.06 Official Record**

The Zoning Administrator shall retain copies of the application, plans, testimony, correspondence, advisory reports, written minutes, findings and conclusions, permits and certificates, and other associated documentation on file as part of the official records. The records shall be available for public inspection.

### **4.07 Use Permits**

#### A. Applicability

This section applies to applications for Special Use Permits. Special Use Permits shall be decided by the Board of Commissioners.

## B. Initiation

Application must be filed by the property owner or with the written consent of the property owner pursuant to Section 4.01.

## C. Technical Review

The technical report from the Zoning Administrator shall include a written summary of facts established by the documentation submitted with the application.

## D. Planning Board Recommendation

Applications for special use permits shall be referred to the Planning Board, which shall conduct an advisory review of a Special Use Permit application, and file a written recommendation of its findings to the Board of Commissioners within 30 days from the date of application referral.

## E. Hearing and Notice

The Board of Commissioners shall conduct a quasi-judicial public hearing pursuant to Section 4.05. Notice shall be sent to the property owner, adjacent property owners, and the applicant.

## F. Action by Decision-Making Body

The decision-making body shall vote to approve, approve with conditions, or deny the application within 45 days after the close of the public hearing. The concurring vote of a simple majority of qualified board members is required to approve a Special Use Permit. Vacant seats and disqualified members are not considered members of the board for voting purposes. The decision-making body may establish its own findings of fact, or adopt the Zoning Administrator's or Planning Board's.

## G. Required Findings

A Special Use permit shall be approved if the Board of Commissioners finds all four of the following:

- 1) The proposed development complies with the applicable regulations of this ordinance.
- 2) The development is compatible with the general character of the area.
- 3) The development will not adversely affect the value of nearby or adjoining properties.
- 4) The use and development, if developed as proposed, will not be detrimental to public health, safety, and welfare.

## H. Consideration

In making its decision, the Board of Commissioners should, at a minimum consider:

- 1) The type and intensity of development in relation to adjacent properties.
- 2) The buffer and screening provided between adjacent land uses.
- 3) The capacity of existing infrastructure to serve the proposed use and existing uses.
- 4) The impact proposed use will have on traffic congestion in the vicinity of the proposed development.

- 5) The adverse impact of noise, odor, dust, and other nuisance on neighbors.
- 6) The impact the proposed use will have on the orderly development of adjacent areas.

#### I. Conditions for Approval

In approving a Special Use Permit, the Board of Commissioners may impose standards, conditions, or requirements, in addition to or that supersede standards established elsewhere in this ordinance, if it deems it necessary to protect the public health, safety, and welfare, including but not limited to:

- 1) Provision of public improvements to adequately serve the development
- 2) Restrictions on the hours of operation.
- 3) Dedication or reservation of land for public use.
- 4) Provisions for restrictive covenants or easements.
- 5) Special dimensional requirements on lots and structures.
- 6) Require recordation in the Register of Deeds.

#### J. Effects of Approval

A Special Use Permit shall authorize the applicant to pursue any permit or certificate required to develop and use the property as approved. If the development is not substantially underway within 2 years after the date of approval, the permit shall lapse. The applicant may ask the decision-making authority for an extension of up to 5 years provided at least 20% of total project cost has been expended. Any period of inactivity of one year or more after the initial 2 years shall cause the permit to lapse.

#### K. Judicial Review

Appeals shall be filed within 30 days from the date the decision is mailed to the applicant with the Granville County Superior Court. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to N.C.G.S. 160D-402. Appeals shall be filed within the times specified in N.C.G.S. 160D-1405 (d).

### **4.08 Zoning Permits**

#### A. Purpose

The purpose of a zoning permit is to certify that a proposed use and development will comply with the regulations of this ordinance and any quasi-judicial approval.

#### B. Applicability:

No building permit or certificate of compliance shall be issued for any structure or use unless a zoning permit is issued by the Zoning Administrator. No change in use shall be permitted without a zoning permit.

#### C. Initiation

An application shall be filed with the written consent of the property owner pursuant to Section 4.01.

D. Review and Action

- 1) Review: The Zoning Administrator shall review the application to determine if it complies fully with the regulations of this ordinance and conditions of any quasi-judicial decision, if applicable.
- 2) Action: Within 10 business days after a sufficient application is filed, the Zoning Administrator shall approve or deny the permit and notify the applicant in writing. If the zoning permit is denied, the notice shall explain why.
- 3) Finding: A zoning permit shall be issued upon finding that the proposed use and development comply with all applicable provisions of this ordinance and any quasi-judicial approval.

E. Effect of Approval

A valid permit authorizes the applicant to pursue a building permit and other approvals required to develop and establish the proposed use. A zoning permit shall be valid for 180 days after the date of approval, after which time it shall expire unless substantial development activity authorized by the zoning permit has commenced. A zoning permit does not exempt the applicant from the requirements of other local, state, or federal permitting authorities.

**4.09 Variances**

A. Purpose

A variance may be considered when the literal interpretation or application of this ordinance creates an unnecessary and unique hardship in making a reasonable use of the property.

B. Initiation

Application shall be filed with the written consent of the property owner pursuant to Section 4.01 after a determination by the Zoning Administrator that the proposed development fails to comply fully with the requirements of this ordinance.

C. Hearing and Notice

A quasi-judicial public hearing shall be conducted by the Board of Adjustment pursuant to Section 4.05. A mailed notice shall be sent to the applicant, property owner, and the adjacent property owners.

D. Action by Board of Adjustment

The Board of Adjustment shall vote to approve or deny the variance within 30 days after the close of the public hearing. The concurring vote of a four-fifth majority of qualified members of the board is required to approve a variance. Vacant seats and disqualified members are not considered members of the board if no qualified alternates are available.

E. Required Findings

A variance shall be issued if the board of adjustment finds all of the following:

- 1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

#### F. Conditions

The Board of Adjustment may impose reasonable conditions to ensure compliance with the required findings above. A variance approved on condition of approval by the Environmental Management Commission or other authority pursuant to state law shall not take effect until and unless said approval is granted.

#### G. Environmental Management Commission (Watershed)

If the Board of Adjustment rules in favor of a major variance to the watershed regulations as defined in this ordinance, the Zoning Administrator shall send the record of the hearing, including the board's decision and conditions, to the Environmental Management Commission for its review. If the Commission finds that the application is for a major variance and denies the variance, the variance shall be denied.

#### H. Effects of Approval

A variance issued in accordance with this section shall authorize the Zoning Administrator to issue a zoning permit if all other standards and conditions are satisfied.

#### I. Judicial Appeal

Appeal shall be filed within 30 days from the date of the decision with the Granville County Superior Court. Any aggrieved person with standing as defined under GS 160D-1402 may file a judicial appeal.

### **4.10 Certificate of Compliance**

#### A. Purpose

No land or structure shall be occupied or used until the Zoning Administrator certifies that the use is developed and established in accordance with the approved permit.

## B. Application and Review

The zoning permit application shall serve as the application for a certificate of compliance. The applicant shall notify the Zoning Administrator when the site is ready for inspection. The Zoning Administrator shall inspect the site for compliance with the required findings.

## C. Findings

The Zoning Administrator shall approve the application upon finding that the use and development comply with the approved permit and plans and the applicable conditions of a quasi-judicial approval. Otherwise, the zoning administrator shall notify the applicant in writing why the application was denied.

## D. Appeal

An aggrieved person shall have 30 days from the date of the decision to file an administrative appeal pursuant to Section 4.11.

### **4.11 Administrative Appeal**

#### A. Initiation

Any aggrieved person with standing may file an appeal with the Town Clerk. Appeals shall be filed within 30 days from the date of the action alleged to be in error.

#### B. Official Records

Upon receipt of a sufficient application, the Town Clerk shall refer the application and any pertinent record to the Board of Adjustment.

#### C. Review Hearing

Within 30 days after the application is deemed to be sufficient, the Board of Adjustment shall conduct a quasi-judicial public hearing pursuant to Section 4.05. A mailed notice shall be sent to the applicant and property owner pursuant to Section 4.03.

#### D. Action and Findings

- 1) Action: Within 30 days after the hearing, the Board of Adjustment shall vote to reverse, modify, or affirm the decision alleged in error. A concurring vote of a simple majority of board members is required to reverse or modify the decision of the Zoning Administrator. Vacant seats and disqualified members are not considered members of the board for voting purposes.
- 2) Findings: The Board of Adjustment shall reverse or modify the decision if the applicant shows that the Zoning Administrator erred in the interpretation or application of this ordinance. At which time, the Board shall exercise the duties of the Zoning Administrator and make the decision that ought to be made.

#### E. Judicial Appeal

Appeal shall be filed within 30 days from the date of the decision with the Granville County Superior Court. Only a person with standing as defined under GS 160D-102 may file a judicial appeal.

## 4.12 Amendments

### A. Applicability

This section shall apply to any proposed amendment to the text of this ordinance or the official zoning map.

### B. Initiation

Any property owner may propose a text amendment to the Board of Commissioners or Planning Board, but only the Board of Commissioners and Planning Board may initiate a text amendment review. A proposed map amendment may be initiated by the Board of Commissioners or Planning Board, or by application filed with the written consent of the affected property owner pursuant Section 4.01.

### C. Planning Board Referral

All applications shall be referred to the Planning Board at the next regular meeting held at least 15 days after the application was deemed sufficient.

### D. Planning Board Recommendation

- 1) Within 30 days of referral, the Planning Board shall consider the application and send its written recommendation to the Board of Commissioners, advising on whether the proposed amendment is consistent with the comprehensive plan and on other matters relevant to the considerations established under paragraph (H) of this section.
- 2) If the Planning Board submits no written recommendation within the allotted 30 days, the Board of Commissioners may hold the required public hearing and take final action without a Planning Board recommendation. The Board of Commissioners is not bound by the recommendation of the Planning Board.

### E. Public Hearing and Notice

Before taking final action on the application, the Board of Commissioners shall conduct a legislative public hearing pursuant to Section 4.04. For map amendments, a mailed notice shall be sent to the owners of adjacent properties within 100 feet of the affected parcels in addition to the applicant and affected property owner.

### F. Action by Town Board

After the hearing, the Board of Commissioners may approve the amendment as proposed or modified, deny the amendment, or refer the amendment back to the Planning Board for further study. The concurring vote of a majority of the members of the Board of Commissioners is required to approve the amendment.

### G. Statement on Plan Consistency:

Every decision shall include a statement specifying whether the action taken is consistent with the comprehensive plan and why the action is reasonable and in the public interest. The Town Board may adopt the Planning Board's statement or prepare its own.

H. Considerations:

The Town Board may approve any amendment it finds to be reasonable and in the public interest. While no one factor controls, the Town Board shall consider at least the following criteria in making its decision.

- 1) Plan Consistency: The proposed amendment is consistent with the goals and objectives of the comprehensive plan as described under Section 1.08.
- 2) Compatibility: The proposed amendment is compatible with the general character of development on adjacent properties.
- 3) Public Services: Adequate public infrastructure is available to provide an acceptable level of service to existing and potential uses.
- 4) Adverse Impacts: The rezoning will not have an unreasonable adverse impact on adjacent properties in terms of property value, noise, traffic, pollution, etc.
- 5) Public Need: An identified public need such as affordable housing, economic development, or public improvements will be addressed by the amendment.
- 6) Suitability: The affected property is generally suitable for the type of uses that could be permitted in the proposed zoning district.

I. Effect of Amendment:

An amendment authorizes the applicant to pursue development approvals consistent with the standards and procedures established in this ordinance as amended. However, no amendment shall be applicable or enforceable without the consent of the landowner of affected property with a valid zoning vested right.

J. Judicial Appeal:

Appeals shall be filed with the Granville Superior Court pursuant to N.C.G.S. 160D-601. A cause of action challenging the validity of this ordinance or amendment shall be brought within the time period prescribed by N.C.G.S. 160D-601.

#### **4.13 Site Specific Development Plan**

A. Applicability

This section applies to landowners seeking to establish a zoning statutory vested right as described in Article 2.

B. Establishment:

A statutory vested right may be established for a zoning permit upon Board of Commissioners approval of a site specific development plan after a quasi-judicial public hearing held pursuant to Section 4.05. A Special Use Permit shall be regarded as a site specific development plan upon approval.

C. Findings and Conditions:



A site specific development plan may be approved upon such terms and conditions the Board of Commissioners finds reasonably necessary to protect the public health, safety, and welfare. Failure to abide by such terms and conditions shall forfeit the statutory vested right. Approval on condition that a variance is obtained shall not confer a vested right until and unless said variance is obtained. Such a condition shall not infer that a variance will be granted absent an appropriate finding of fact.

D. Amendment:

An amendment to the site specific development plan shall not extend the vesting period unless expressly provided at the time the amendment is approved.

#### **4.14 Enforcement and Remedies**

A. Purpose

This section is established to enforce and correct violations of this ordinance as authorized by GS 160A-174, 160A-175, 160A-193, and other applicable provisions of state law. Its intent is to ensure that uses, structures and lots comply with this ordinance at all times; and to encourage voluntary corrections of violations when possible.

B. Violations

- 1) Failure to Comply: Failure to comply with any provision of this ordinance or the conditions of an approved permit at any time is a violation of this Ordinance, subject to the penalties and remedies provisions of this Section.
- 2) Complaint: Any person may file a complaint with the Zoning Administrator to allege a violation. Such a complaint shall state the condition that is alleged to be a violation.
- 3) Inspection: When a violation is alleged or observed, the Zoning Administrator shall investigate, and if substantiated, shall issue a written notice of violation to the offender.
- 4) Notice of Violation
  - a) The initial notice shall state: (1) the nature of the violation; (2) the provision of this ordinance violated; (3) the actions required to correct the violation; (4) the deadline to voluntarily correct the violation or file an appeal pursuant to Section 4.11.
  - b) A final notice of violation, which may be the initial notice, shall state the remedies and penalties that may be applied to enforce this ordinance if the violation is not voluntarily corrected.

C. Remedies & Penalties

The Zoning Administrator shall take appropriate action to abate a violation and insure compliance with this ordinance. The remedies and penalties in this section are listed in their preferred but not required sequence of application.

- 1) Civil Remedies: In addition to the remedies cited in this ordinance and pursuant to GS 160A- 175, any person who violates this ordinance may be fined a civil penalty of \$100 for each day a violation continues after the deadline set in the notice of violation. The Town

may seek to recover the fine together with all costs by filing a civil action in the nature of a suit to collect a debt.

- 2) Stop-Work Order: The Zoning Administrator may issue a Stop-Work Order for work associated with an approved permit. The reasons for the order and the action required to resume work shall be stated.
- 3) Permit Revocation: A permit may be revoked upon finding that it was issued in reliance on false statements or misrepresentation, that work associated with the permit is in substantial departure from the approved zoning permit, or a permit has been issued in violation of this ordinance. A written notice of revocation shall be sent to the permit holder.
- 4) Injunction: An application for a mandatory or prohibitory injunction ordering the offender to correct the unlawful condition or cease the unlawful activity may be filed with the appropriate court. It may be filed before or after all other remedies are applied.
- 5) Order of Abatement: In addition to an injunction, the Town may apply to the court for an Order of Abatement to direct that:
  - a) Buildings or other structures on the property be closed, demolished, or removed;
  - b) Fixtures, furniture or other moveable property be removed;
  - c) Improvements, alterations, or repairs be made; or
  - d) Other actions are taken to bring the property into compliance with this Ordinance.
- 6) Equitable Remedy: The Town may apply to a court of law for appropriate equitable remedy to enforce this Ordinance. The fact that other remedies are available under general law or this Ordinance shall be no defense to the Town's application for equitable relief.

D. Repeat Violations:

If an offender repeats a violation within a two-year period, the Town may begin at the point of enforcement where the previous violation was resolved.

#### **4.15 Split Jurisdiction**

If a parcel of land lies within the planning and development regulation jurisdiction of more than one local government, the Town of Stem and Granville County may by mutual written agreement and with the written consent of the landowner assign exclusive planning and development regulation jurisdiction for the entire parcel to either the town or the county. Such a mutual written agreement shall only be applicable to development regulations and shall not affect taxation or other non-regulatory matters. The mutual agreement shall be evidenced by a resolution formally adopted by each governing board and recorded with the Granville County register of deeds within 14 days of the adoption of the last required resolution.

#### **4.16 Pending Jurisdiction**

After consideration of a change in local government jurisdiction has been formally proposed, the local government that is potentially receiving jurisdiction may receive and process proposals to adopt

development regulations and any application for development approvals that would be required in that local government if the jurisdiction is changed. No final decisions shall be made on any development approval prior to the actual transfer of jurisdiction. Acceptance of jurisdiction, adoption of development regulations, and decisions on development approvals may be made concurrently and may have a common effective date.

## Article 5. Zoning Districts

### 5.01 Purpose

This Article establishes various zoning districts deemed suited to carry out the purpose of this Ordinance and to implement the comprehensive plan. Each district has corresponding regulations (Article 7: District Regulations) on the construction, alteration, repair, or use of buildings, structures, and lands within the Town’s jurisdiction.

### 5.02 Establishment of Zoning Districts

#### A. Use District

The Town’s territorial jurisdiction is divided into various residential and nonresidential districts that establish the types of uses permitted in each district.

#### B. Overlay Districts

Overlay districts apply to special situations that require additional regulations to protect the public health, safety, and welfare. Overlay district regulations are in addition to or in the place of the underlying use district regulations.

#### C. Establishment of Zoning Districts

The zoning districts and their purpose are established in the following table.

Abbreviation	Title	Purpose
<b>Use Districts</b>		
R1	Single-family Residential	To accommodate low density single-family residential development and complementary uses compatible with the rural character of Stem.
R2	Mixed Residential	To allow a compatible mix of attractive housing types and neighborhoods with convenient access to amenities that enhances the quality of life of residents.
CC	Community Commercial	To meet the retail and service needs of the community and promote economic opportunities for locally-owned businesses in the downtown core.
MU	Mixed Use Residential and Commercial	To allow for higher density multifamily housing and more parking intensive business opportunities than are feasible in the downtown core.
LI	Light Industrial	To accommodate light industrial and warehousing activities that provide quality job opportunities to residents, expand the local economy, and preserve community resources.
OC	Open Space & Conservation	To preserve and protect environmentally sensitive lands, or properties already under public or private ownership otherwise restricted by conservation easements.

Overlay Districts		
WS-II	WS-II Watershed	To protect the public health, safety, and welfare and to implement the Watershed Protection Rules in Chapter 143, Article 21 of the General Statutes as they apply to the jurisdictional boundary of this ordinance.
MHP	Manufactured Home Park	To provide affordable housing opportunities in a quality living environment for all residents, to protect the character and property values of nearby residential areas, and promote the health, safety, and welfare of park residents.
SFHA	Special Flood Hazard Area	To promote the public health, safety and general welfare by minimizing public and private losses due to flood conditions in specific areas.

### 5.02.1 Conditional Zoning Districts

#### A. Purpose

Conditional Zoning Districts are zoning districts in which the development and use of the property is subject to predetermined standards and rules, regulations, or other conditions imposed as part of the legislative decision creating the district and applying it to the particular property. A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted comprehensive plan, and adopted district and area plans.

#### B. There are two types of Conditional Zoning Districts available:

##### 1) Conditional Zoning District Type 1

- a) Is defined as a conditional zoning district created as a stand-alone district with its own unique conditions. Under a Conditional Zoning District Type 1, an owner would have the freedom to develop his/her own unique list of permitted uses and design standards. It is also understood that such a district would need to be designed so as to maintain the integrity and characteristics of the surrounding community as well as conform to the spirit and intent of the Zoning Ordinance. A Conditional Zoning District Type 1 would be most suitable in situations where none of the current conventional Zoning Districts accommodate the desired use(s), such as a large mixed-use planned development in which the owner/developer has a clear vision as to how the property is to be developed.
- b) Only the property owner(s) of a proposed Conditional Zoning District Type 1 shall be eligible to apply for rezoning to a Conditional Zoning District.
- c) The owner shall specify the use(s) of the property and shall propose additional

conditions to ensure compatibility between the development and the surrounding neighborhood. The conditions shall include all of the following (as applicable):

- i. The location on the property of the proposed use(s);
  - ii. The number of dwelling units and the gross floor area of all commercial or other non-residential use(s);
  - iii. The location and extent of supporting facilities such as parking lots, driveways, and access streets;
  - iv. The location and extent of buffer areas and other special purpose areas;
  - v. The timing or phasing of development;
  - vi. The location and extent of rights-of-way and other areas to be dedicated for public purposes;
  - vii. And any other such conditions the applicant may wish to propose.
- d) The application shall include a Site Plan and detailed narrative text that specifies the conditions that will govern the development and use of the property.
- e) It is required that applicants consult with the Stem Planning Board prior to submission of an application for a Conditional Zoning District. The Planning Board can assist the applicant in determining preliminary assessments regarding the appropriateness of the proposed conditions with respect to existing zoning and surrounding land use.
- f) Applications for Conditional Zoning Districts shall be submitted and reviewed in the same procedural manner as set forth for a Zoning Map Amendment in Section 4.12 of this Ordinance.

## 2) The Conditional Zoning District Type 2

- a) The Conditional Zoning District Type 2 is defined as a conditional zoning district created for the purpose of allowing a property owner to place additional conditions upon an existing, equivalent conventional, general use zoning district. For example, a Conditional Zoning District Type 2 would be the preferred zoning approach if a petitioner desired to reduce or narrow the number of permitted uses that would otherwise be allowed in a corresponding zoning district that would otherwise be allowed in a corresponding zoning contract, or:
  - i. Impose higher level design standards than that which exists within an equivalent general use zoning district.
  - ii. Conditional Zoning District Type 2 would also be practical in situations where a petitioner desires to install or construct additional buffers or other physical features that would serve to increase the protection afforded neighboring properties and/or the appearance of the proposed development.
- b) Only the property owner(s) of a proposed Conditional Zoning District Type 2 shall

be eligible to apply for rezoning to a Conditional Zoning District.

- c) The owner shall specify the use(s) of the property and shall propose additional conditions to ensure compatibility between the development and the surrounding neighborhood. The conditions shall include all of the following (as applicable):
  - i. The location on the property of the proposed use(s);
  - ii. The number of dwelling units or gross floor area of all commercial or non-residential uses;
  - iii. The location and extent of supporting facilities such as parking lots, driveways, and access streets;
  - iv. The location and extent of buffer areas and other special purpose areas;
  - v. The timing or phasing of development;
  - vi. The location and extent of rights-of-way and other areas to be dedicated for public purposes;
  - vii. And any other such conditions the applicant may wish to propose.
- d) It is required that applicants consult with the Stem Planning Board prior to submission of an application for a Conditional Zoning District. The Planning Board can assist the applicant in determining preliminary assessments regarding the appropriateness of the proposed conditions with respect to existing zoning and surrounding land use.
- e) Applications for Conditional Zoning Districts shall be submitted and reviewed in the same procedural manner as set forth for a Site Specific Development Plan in Section 4.12 of this Ordinance.

### 3) Scope of Approval

- a) Any conditions in association with a Conditional Zoning District and so authorized shall be perpetually binding upon the property included in such Conditional Zoning District unless subsequently changed or amended as provided for in this Article.
- b) The applicant shall obtain certification of the approval of the Conditional District, and shall record the legal description and accompanying map exhibit/site plan in the office of the Register of Deeds of Granville County.
- c) If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to accept any of the conditions of approval, the Conditional Zoning District shall be deemed null and void and the governing body shall initiate proceedings to rezone the property to its previous zoning classification. Continued or repeated violation of the conditions in an approved Conditional Zoning District shall constitute an applicant's failure to accept said conditions.
- d) Any violation of a condition in an approved Conditional Zoning District shall be treated the same as any other violation of this Ordinance and shall be subject to the

same remedies and penalties as any such violations.

- e) The approval of a zoning map or text amendment does not authorize any development activity.

### **5.02.2 Conservation Design for Residential Districts R1 & R2**

#### **A. Purpose**

- 1) In accordance with Objective 2A of the Town of Stem Town Plan 2040, the purposes of this design philosophy is to provide flexibility in the design of residential development, as follows:
- 2) To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, wildlife corridors, streams, floodplains and wetlands, by setting them aside from development;
- 3) To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development;
- 4) To reduce erosion and sedimentation by the retention of existing vegetation;
- 5) To implement adopted municipal policies to conserve a variety of irreplaceable and environmentally sensitive resource lands, including provisions for reasonable incentives to create a greenway and/or open space system for the benefit of present and future residents;
- 6) To implement adopted land use, transportation, and community policies, as identified in the Town's Comprehensive plan;
- 7) To protect areas of the Town for continued or future agricultural use, by conserving blocks of land large enough to allow for efficient farm operations;
- 8) To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space and create an interconnected trail network within the Town's zoning limits.
- 9) To provide for the conservation and maintenance of open land within the Town to achieve the above-mentioned goals and for active or passive recreational use by residents;
- 10) To provide multiple options for landowners in order to minimize impacts on environmental resources (sensitive lands such as wetlands, floodplain, and) and disturbance of natural or cultural features;
- 11) To provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties; and
- 12) To conserve scenic views and elements of the municipality's rural character, and to minimize perceived density, by minimizing views of new development from existing roads.

- B. In order to achieve these purposes, this Section provides for flexibility in designing new residential subdivisions by allowing two forms of "by-right" development referred to as "options", as summarized below:

- 1) Option One: Basic Conservation, providing for residential uses at the density permitted by



the underlying zoning. One dwelling unit per acre and not exceeding twelve percent (12%) built-upon area for the entire development project. This option shall be allowable for all residential development of five (5) acres or fewer.

- 2) Option Two: Enhanced Density with Greater Conservation, providing for higher density residential uses. A maximum of two dwelling units per acre not exceeding twenty-four percent (24%) built-upon area for the entire development project. This option shall be allowable for all residential development, and required for all residential development of more than five (5) acres.

#### C. General Regulations

The design of all new subdivisions in areas designated R1 or R2 shall be governed by the following minimum standards:

- 1) Ownership: The tract of land may be held in single and separate ownership or in multiple ownership. However, when a tract is held in multiple ownership, the application must be signed by all owners and the proposed development shall be subject to a common plan of development with standards which apply to all land within the district.
- 2) Site Suitability: As evidenced by the conceptual Preliminary Plan, and the detailed Final Plan, the tract incorporating this design option shall be suitable for supporting development in terms of environmental conditions, size, and configuration.
- 3) Intersections and Access: New intersections with existing public roads shall be minimized. Although two access ways into and out of subdivisions containing more than 15 (fifteen) dwellings are generally required for safety, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow.
- 4) Sensitive Area Disturbance: The proposed design shall strictly minimize disturbance of environmentally sensitive areas, as shown on the Preliminary Plan. Lands within the 100-year floodplain, wetlands, surface waters, and significant stands of trees constitute such environmentally sensitive areas, where disturbance shall be strictly minimized. Demonstration by the applicant that these features will be protected by the proposed application shall be prerequisite to approval of both the conceptual Preliminary Plan and the detailed Final Plan.

#### D. Use Regulations

Land in the areas designated R1 or R2 may be used for the following purposes only:

- 1) Single-Family Detached Dwellings

Single-family detached dwellings in Options 1 and 2 subdivisions:

- a) Option One: Basic Conservation, providing for residential uses at the density permitted by the underlying zoning. One dwelling unit per acre and not exceeding twelve percent (12%) built-upon area for the entire development project. This option

shall be allowable for all residential development of five (5) acres or fewer.

- b) Option Two: Enhanced Density with Greater Conservation, providing for higher density residential uses. A maximum of two dwelling units per acre not exceeding twenty-four percent (24%) built-upon area for the entire development project. This option shall be allowable for all residential development, and required for all residential development of more than five (5) acres.

## 2) Multi-Family Housing

Duplexes shall be a permitted use in R2 districts and a Special Use in R1 districts. Connected housing for anything more than two units shall be considered Townhomes which are not allowed in R1 districts and require a Special Use in R2 districts. Multi-family housing shall not exceed twenty-four percent (24%) built-upon area for the entire development project.

## 3) Conservation Area

Conservation area comprising a portion of residential development, as specified above and according to requirements of Section 5.02.2.F.

## 4) Other Non-Residential Uses

The following non-residential uses in accordance with the standards of Section 5.02.2.F

- a) Agricultural uses, including horticultural, wholesale nurseries, and the raising of crops, and buildings related to the same.
- b) Woodlots, arboreta, and other similar silvicultural uses.
- c) Woodland preserve, game preserve, wildlife sanctuary, or other similar conservation use.
- d) Municipal or public uses; public park or recreation area owned and operated by a public or private nonprofit agency; governmental or public utility building or use; not to include business facilities, storage of materials and private or municipal sanitary landfills.

## E. Dimensional Standards and Density Determination

### 1) Dimensional Standards For Option 1: Neutral Density And Basic Conservation

- d) Density Factor: One dwelling unit per acre for the entire development project.
- e) Minimum Lot Width at Building Line: 100 feet
- f) Minimum Street Frontage: 25 feet

- g) Yard Regulations: The builder or developer is urged to consider variations in the principal building position and orientation on approved lots, but shall observe the following minimum standards:
  - i. Front yard setback: 25 feet
  - ii. Rear yard setback: 15 feet
  - iii. Side yard setback: 25 feet
  - iv. Maximum Impervious Coverage: Twelve percent (12%) limit for the entire development built pursuant to a common development plan
  - v. Maximum Height Regulations: 45 feet

2) Dimensional Standards for Option 2: Enhanced Density with Greater Conservation

- a) Density Factor: A maximum of two dwelling units per acre.
- b) Minimum Lot Width at Building Line: 70 feet
- c) Minimum Street Frontage: 20 feet
- d) Yard Regulations: The builder or developer is urged to consider variations in the principal building position and orientation, but shall observe the following minimum standards:
  - i. Front yard setback: 20 feet minimum
  - ii. Rear yard setback: 10 feet minimum
  - iii. Side yard setback: 12 foot separation for principal buildings, with no side yard less than 6 feet
  - iv. Maximum Impervious Coverage: Twenty-four percent (24%) limit for the entire development built pursuant to a common development plan.
  - v. Maximum Height Regulations: 45 feet
- a) At least 50% of the lots shall directly abut or face Conservation Area across a street. Conservation Area on adjacent properties may be used to satisfy this requirement.
- b) At least 30% of the entire development project must be designated as Conservation Area as identified in Section 5.02.2.F.

3) Design Standards for Option 1 **and** 2, Subdivisions

- a) House-lots shall not encroach upon the Conservation Area as identified in Section 5.02.2.F.
- b) Notwithstanding the minimum setbacks established elsewhere in Section 5.02.2, all new dwellings situated on lots which abut NCDOT roads or development tract boundaries shall meet the following setback requirements:
  - i. From NCDOT roads bordering the tract - 100 feet
  - ii. From all other tract boundaries - 40 feet

- c) Views of house-lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping as suggested in Section 6.05.
- d) House-lots shall generally be accessed from interior streets, rather than from roads bordering the tract.

#### F. Conservation Area Use and Design Standards

Conservation Area land in all subdivisions shall meet the following standards:

##### 1) Uses Permitted in Conservation Area

The following uses are permitted in Conservation Area lands:

- a) Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow);
- b) Neighborhood open space uses such as common space areas, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, and other uses similar in character and potential impact as determined by the Board of Commissioners.
- c) Active non-commercial recreation areas, such as playing fields or playgrounds, and non-impervious bikeways, these areas must be counted in total built upon area calculations for proposed subdivision, where relevant.
- d) Parking facilities for the same shall also be permitted, and they shall meet applicable drainage and stormwater management standards, provide safe ingress and egress, and contain no more than ten parking spaces. Parking areas must be counted in total built-upon area calculations for proposed subdivision.
- e) Water supply, sewage disposal systems, and stormwater control measures designed, landscaped, and available for use as an integral part of the Conservation Area. Stormwater Control Measure (SCM) areas may not occupy more than 10% of the Conservation Area.
- f) Easements for drainage, access, sewer or water lines, or other public purposes;
- g) Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse the Conservation Area but the area within such rights-of-way shall not count toward the minimum required Conservation Area land.
- h) Public use walking trails, as arranged during the pre-submittal meeting and defined in the final plat.

## 2) Conservation Area Design Standards

- a) Conservation Area lands shall be laid out in general accordance with the Town's Map of Potential Conservation Lands in effect at the time of submission to ensure that an interconnected network of open space will be provided and that areas interconnected to Tar River Land Conservancy are maximized. The required Conservation Area shall consist of a mixture of floodplains and wetlands (all of which must be included if they exist on the property) and special features of the property as determined during the pre- submittal conference (see Section 3.02.A).
- b) A portion of the tract in any of the options may be subject to the Town's public land dedication requirement (typically to provide potential connections with the municipal long-range trail network).
- c) Buffers for Adjacent Conservation Areas: Where the proposed development adjoins existing or potential future Conservation Area, a natural greenway buffer at least forty (40) feet deep shall be provided within the development along its common boundary with the parkland, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted except to accommodate the provisions of section 5.02.2.E or as may be necessary for street or trail construction. Where this buffer is unwooded, the Town may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through "no-mow" policies and the periodic removal of invasive plant and tree species.
- d) Other Requirements
  - i. No portion of any building lot may be used for meeting the minimum required Conservation Area land, except as permitted within County-owned or Town-owned Properties.
  - ii. Pedestrian and maintenance access shall be provided to Conservation Area land in accordance with the following requirements:
    - Each neighborhood shall provide one centrally located pedestrian and maintenance access point per 30 lots.
    - All Conservation Area land areas that are not wooded shall be vegetated in accordance with the landscaping requirements of the Town of Stem Watershed Protection Ordinance.

## G. Permanent Conservation Area Protection through Conservation Easement

- 1) In Option 2 Subdivisions, the property owner shall grant a permanent Conservation Easement to the Town encompassing the lands designated as Conservation Area. The applicant shall, at the time of stormwater management plan submission, present a draft Conservation Easement Deed that will outline the restrictions and allowed uses of the Conservation Area. The Conservation Easement shall be recorded at the time the final plat is filed for subdivision. There shall be no cost of acquisition to the town.

- 2) In Option 2 Subdivisions, the property owner shall pay a one-time fee that covers the costs to monitor and enforce the terms of the easement in perpetuity. This fee will be determined based on the rate listed in the most recent Town of Stem Zoning Application Fee Schedule. The fee will be divided by the number of planned developed lots and charged at the time of application for individual lot Zoning & Watershed permits.
- 3) In option 2 Subdivisions, all Conservation Easement areas shall be surveyed and marked with permanent markers or monuments that are clearly labeled and constructed of materials acceptable for use in surveying, i.e., carsonite markers, concrete monuments, etc. Markers shall be placed at least every 300 feet and at every directional change. Markers shall be visible from the ground surface, permanent in construction (i.e. a marker which requires the use of mechanical tools to remove), easily locatable (i.e. no specialized or mechanical tools are required to locate and uncover the marker), and shall permanently identify the easement that is being marked. Easement marker or monument locations shall be depicted on the final plat.

#### H. Ownership and Maintenance of Conservation Area, Stormwater Control Measures, and Common Facilities

##### 1) Ownership

Common facilities shall be held in common ownership by a homeowners' association or equivalent entity, subject to all of the provisions for homeowners' associations set forth in state regulations and statutes. In addition, the following regulations shall be met:

- a) The applicant shall provide the Town a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities;
- b) The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any lots in the development;
- c) Membership in the association shall be automatic (mandatory) for the owners of all lots;
- d) The association shall be responsible for maintenance and insurance of common facilities;
- e) The homeowners association by-laws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in dues. Such dues shall be paid with the accrued interest before the lien may be lifted;
- f) Dedication of Easements to the Town. At the time that the final plat is filed for subdivision, public easements shall be granted related to the trail network, and any other common land or facilities specified in the final plat as public space. If during the pre-submittal phase it is determined that there are suitable locations for future connections to the trail network, those easements shall be identified in the final plat, and dedicated at the time the final plat is filed for subdivision.
  - i. There shall be no cost of acquisition to the Town;

- ii. Any such easements for public use shall be accessible to the residents of the Town; and
- iii. A satisfactory maintenance agreement shall be reached between the owner and the Town.

## 2) Maintenance

- a) Unless otherwise agreed to by the Town, the cost and responsibility of maintaining common facilities and Conservation Area land shall be borne by the property owner or homeowners' association.
- b) The applicant shall, at the time of stormwater management plan submission, provide a Plan for Maintenance of Conservation Area Lands and Operation of Common Facilities in accordance with the following requirements.
  - i. The Plan shall define ownership;
  - ii. The Plan shall establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of open space (i.e. walking trails, lawns, playing fields, meadow, pasture, cropland, woodlands, etc.);
  - iii. The Plan shall estimate staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the Conservation Area and operation of any common facilities on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs;
  - iv. At the Town's discretion, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for up to one year; and,
  - v. Any changes to the maintenance plan shall be approved by the Board of Commissioners
  - vi. In the event that the organization established to maintain the Conservation Area and the common facilities, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the municipality may, after providing the owner of the Conservation Area with thirty (30) days' advance written notice, assume responsibility for maintenance, in which case any escrow funds may be forfeited and any permits may be revoked or suspended.
  - vii. The Town may, after providing the owner of the Conservation Area with thirty (30) days' advance written notice, enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property owner, condominium association, homeowners association, or individual property owners who make up a condominium or homeowners' association and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the municipality in the office of the Superior Court Clerk.

### 5.03 The Official Zoning Map

#### A. Adoption

The Official Zoning Map and all matters shown on it are incorporated by reference as part of this ordinance. The Map shall delineate the boundaries of the zoning districts and the town's jurisdictional boundaries. The map shall be signed by the Mayor and attested by the Town Clerk under the following certification: "This is to certify that this is the official zoning map of the Zoning Ordinance for the Town of Stem, North Carolina". The date of adoption shall also be shown. The official zoning map shall be maintained in the Zoning Administrator's office and available for public inspection.

#### B. Map Amendments

Map amendments shall be listed in chronological order, with a brief description of change, on the official zoning map under the following entry: "On [date of approval] by official action by the Board of Commissioners, the following amendments were made to the Official Zoning Map:" The statement shall be signed by the Mayor and attested by the Town Clerk.

#### C. Damaged or Destroyed Map

If the official zoning map is damaged, destroyed, lost, difficult to read, or to correct drafting errors or omissions, the Board of Commissioners may adopt a replacement map. The replacement map shall supersede the original but shall not have the effect of rezoning any property. Unless the original map is lost or destroyed, it shall be preserved in the Zoning Administrator's office for future reference.

#### D. Conflicts with Copies of Map

The official zoning map shall supersede conflicts with paper or electronic copies.

#### E. Interpreting District Boundaries

Where uncertainty exists on the location of district boundaries, the following rules of interpretation shall apply:

- 1) Centerlines: Boundaries indicated as approximately following the centerlines of streets, railroads, or other right-of-way shall be construed to follow such centerlines.
- 2) Lot lines: Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- 3) Town limits: Boundaries indicated as approximately following corporate or ETJ boundary lines shall be construed as following such boundary lines.
- 4) Water bodies: Boundaries indicated as approximately following streams, rivers, creeks, or other water bodies shall be construed as moving with any change in course.
- 5) Parallel: Boundaries indicated as parallel to, or extensions of features indicated in the above paragraphs shall be so construed.
- 6) Determination: Where the scale, lack of detail, or legibility of the zoning map creates



uncertainty or conflict as to the intended location of a zoning district using the above means, the board of adjustment shall interpret the exact location after a quasi-judicial hearing.

## Article 6. General Regulations

### 6.01 Applicability

These regulations apply uniformly to all lands and structures in any district within the town's jurisdiction. They are the minimum standards unless a greater standard is imposed elsewhere in this ordinance.

### 6.02 Lots

#### A. Compliance With District Regulations

The dimension and orientation of lots shall comply with the applicable use and district regulations of this ordinance, and shall be of sufficient size to accommodate off-street parking, loading, buffer, and other development standards of this ordinance. No lot shall be reduced to less than the minimum standards of this ordinance.

#### B. Existing Lot of Record

An existing lot of record in a residential district with less than the minimum area allowed in the district in which it is located may be used for a single-family residence if held in separate ownership from an abutting lot if the dwelling complies with the setback requirements for the district.

#### C. Lot Access

No building or use shall be established on a lot without permanent access to a public street. Access may be from a private easement or public right-of-way.

#### D. Yard and Open Space

- 1) Setback Encroachments: Encroachment into the required yard setback shall be prohibited except as provided below:
  - a) Architectural features such as eaves, bay windows, balconies, gutters, awnings, steps, chimneys, and similar features and overhangs may encroach no more than 3 feet from the building wall.
  - b) Detached accessory buildings may encroach into the rear or side yard within 5 feet of the property line, but no closer than 20 feet from a dwelling unit on an adjacent lot.
- 2) Off-street parking and loading facilities subject to Section 6.06
- 3) Outdoor storage and display areas subject to Section 8.08
- 4) Fences and walls subject to Section 6.03(C)
  - a) No encroachment shall impede access to public easements or right-of-way for their intended purpose. The Town may remove such encroachments, including fences, without notice or compensation to the fence owner.

- b) No encroachment shall project beyond the property line.
- 5) Double frontage lots: Lots with frontage on more than 1 street, such as corner lots and through lots, shall comply with the front yard requirements of this ordinance on each side with frontage.
- 6) Visibility at Intersection: Visibility at intersections shall be unobstructed between 3 feet and 6 feet above the crown of the street within a triangular area formed by connecting points that extends 10 feet from the point of intersect of a driveway and street right-of-way line or 15 feet from the point of intersect of two street right-of-way lines.

**6.03 Buildings and Structures**

**A. Buildings to Be On a Lot**

- 1) No more than 1 principle building is permitted on a lot except in a planned development.
- 2) Buildings shall be placed on the lot to provide convenient access to public services and utilities.

**B. Building Height**

- 1) Building height shall conform to the requirements of the applicable district regulations.
- 2) Exceptions: Church spires, belfries, cupolas, or domes not used for human occupancy, chimneys, parapet walls, cornices, or necessary mechanical appurtenances may exceed height limitations to the extent necessary for their proper functioning.

**C. Fences and Walls**

1) Maximum Height:

Location	In residential districts	In non-residential districts
Front yard	4 feet	4 feet
Side yards	6 feet	8 feet
Rear yards	6 feet	8 feet

- 2) Material: Fencing may be constructed of aluminum, steel, vinyl, chain link, wooden, brick, masonry, decorative stone or other material similar in durability. No barbed wire or sharp pointed fence less than 8 feet tall shall be erected.
- 3) Federal, State or Local Utilities: May install a fence as described in 6.03(C)(2) with the exception that the fence may not be less than 6 feet if topped by barbed wire.

**D. Manufactured Homes**

A manufactured home, when permitted on an individual lot, shall conform to the building setback, yard, and off-street parking standards applicable to a conventional, single-family residential dwelling on the same lot.

## **6.04 Landscaping (reserved)**

## **6.05 Buffer and Screening**

### **A. General Requirements and Regulations**

- 1) Whenever a buffer strip is required by this article, such strip shall meet the specifications of this section, unless greater specifications are given in another article of this chapter.
- 2) Whenever a buffer strip is required by this article, the specifications shall be submitted to the Zoning Administrator. Written permission of the Zoning Administrator shall be obtained prior to the actual construction of the buffer zone(s).
- 3) The Zoning Administrator is deemed responsible for determining the correctness of the buffer zone.
- 4) All nonresidential and multifamily residential uses shall be screened from adjacent residential lots by an opaque screen at least 6 feet in height.
- 5) The buffer strip shall consist of a planted strip which shall be a minimum of 10 feet in width, shall be composed of evergreen bushes, shrubs, and/or trees such that at least two rows of coverage are provided from the ground to a height of four feet when planted. A driveway or pedestrian walkway leading to the land use on the property may cross the buffer.
- 6) All buffer strips shall become part of the lot(s) on which they are located, or in the case of commonly-owned land, shall belong to the homeowners or property owners association.
- 7) The buffer strip shall be maintained for the life of the development. Maintenance shall be ongoing and shall be the responsibility of the property owner and the occupant, if different than the owner, of the land on which the buffer is located.
- 8) If a natural screen is already in place which will adequately fulfill the purpose of the buffer strip, the Zoning Administrator may, in writing, allow a substitution of all or part of this screen for the buffer strip. Written permission of the Zoning Administrator shall be obtained before removing any existing natural buffer.
- 9) Where, because of intense shade or soil conditions, a planting screen cannot be expected to thrive, the Zoning Administrator may, in writing, allow the substitution of a well maintained wood or masonry wall or other structure or adornments as deemed suitable for the conditions and intended use.
- 10) Riparian buffer areas required under the watershed protection regulations shall not count towards the requirements of this section.

## **6.06 Off-Street Parking and Loading**

### **A. Purpose**

The purpose of this section is to provide for adequate off-street parking and loading areas to reduce traffic congestion, enhance traffic and pedestrian safety, enhance the appearance of parking areas, and protect adjacent properties from the adverse impacts of uses with inadequate off-street parking and loading.

#### B. Generally

- 1) No off-street loading space shall be used to satisfy off-parking requirements and vice versa.
- 2) Computing Requirements:
  - a) When more than one use is permitted on a lot, the number of required off-street parking and loading spaces shall be the sum of the number required for each use. The board of adjustment may reduce the number of spaces required upon finding that sufficient parking is available to accommodate each use during peak demand.
  - b) Where seating capacity is the standard for determining space requirements, it shall be determined by the number of seating units (i.e. chairs), or each 18 lineal inches of benches or pews. When the number of employees is the standard, it shall be based on maximum shift.
  - c) When the total computed for required off-street parking or loading spaces results in a fraction equal to or greater than one-half, the next higher whole number shall be required.
- 3) Buffer and Screening: In addition to the standards of Section 5.05, a 5-foot buffer strip shall separate all vehicular use areas from the right-of-way and any abutting property line except at permitted points of access.
- 4) Construction and Maintenance:
  - a) All vehicular use areas shall be paved with a permanent, all-weather surface (i.e. asphalt, concrete, stone) and maintained to minimize nuisance from dust and loose debris. These areas shall be paved prior to occupancy.
  - b) All parking spaces shall be clearly identified and marked with paint lines, curbs, or some other manner approved by the Zoning Administrator. Areas shall be maintained in good condition and free of dust, trash, or other debris.

#### C. Parking Design

- 1) Location: Accessory off-street parking facilities shall be on the lot of the use it serves. Parking for nonresidential uses may be provided on a separate lot within 200 feet of the lot on which the use is located with the property owner's written consent provided such use is permitted in the district where the separate lot is located.
- 2) Access: Off-street parking facilities shall be designed to allow motorists to access spaces without impeding vehicular and pedestrian traffic circulation on the site and adjacent streets.
- 3) Dimensions: Off-street parking spaces shall be dimensioned as follows:

Parking Angle (degrees)	Stall Dimensions (feet)		Aisle Width (feet)	
	Width	Length	1-way	2-way
0 (parallel)	8	22	10	20
30	9	18	12	Prohibited
45	9	18	15	Prohibited
60	9	18	18	18
90	9	18	20	24
<i>Note: Accessible parking stalls shall comply with applicable ADA and industry standards</i>				

#### D. Parking Ratios:

Off-street parking spaces shall be provided in the ratios specified below. If a use is not specifically listed, the Zoning Administrator may apply parking standards of a similar use that is listed.

Uses	Minimum Spaces (DU=dwelling units; sf=square feet; GFA=Gross floor area)
Adult Care Facilities (i.e. nursing homes)	1 per 4 beds, 1 per doctor and nurse, 1 per 4 other employees
Arcade	1 per game table, video terminal, or other amusement device
Art Galleries and Museums	1 per 300 sf GFA
Assembly (auditoriums, theaters, etc.)	1 space per 4 seats or 1 per 40 sf GFA available to accommodate movable seats in an assembly room
Bowling, billiards, etc.	2 per lane or pool table,
Car parts, accessories, tires, repair shops	1 per 375 sf GFA, including service bays, wash tunnels, and retail areas
Car Sales	1 per 400 sf GFA sales and service areas
Car Wash (Automatic)	1 per 375 sf GFA, including service bays, wash tunnels, and retail area.
Childcare facility	1 per 375 sf GFA
Churches, temples, synagogues and other religious institutions	1 per 8 seats
Club or fraternal lodge	1 per 3 persons allowed per capacity as established by local fire, building, or health codes
Community Center	1 per 250 sf GFA
Construction-related industry	1 per 1,000 sf GFA
Convenience Store	1 per 500 sf GFA
Financial, real estate, and insurance	1 per 400 sf GFA

Uses	Minimum Spaces (DU=dwelling units; sf=square feet; GFA=Gross floor area)
Fitness Center, gym, or athletic club	1.5 per 1,000 sf GFA
Funeral services	1 per 4 seats
Gas Stations	1 per 375 sf GFA including service bays, wash tunnels, and retail areas.
Hardware Store	1 per 200 sf GFA
Home and commercial service and repair	1 per 1,000 sf GFA
Library	1 per 300 sf GFA
Light industry	1 per 300 sf GFA
Lodging (hotels, motels, etc.)	1 per sleeping room and 1 per 400 sf of assembly area
Medical clinic or hospital	1 per 400 sf GFA
Mini-warehouse	1 per 4 units plus 2 for manager's quarters
Movie theater	1 per 6 seats
Neighborhood shopping center	1 per 300 sf GFA
Offices (professional and administrative)	1 per 300 sf GFA
Outdoor Recreation Area (Commercial), Driving Range, Miniature Golf, etc.	1 per 3 persons at maximum capacity, plus 10 spaces, plus 1 per 2 employees
Personal service (barber shops, beauty salons, etc)	1 per 75 sf GFA
Plumbing and Heating	1 per 900 sf GFA
Post office	1 per employee
Public administration	1 per 300 sf of public use
Public safety (police/fire)	1 per employee on normal shift + 1 per 200 sf of office space.
Residential (multifamily, townhouse, and manufactured home parks)	2 per DU
Residential (single and two family dwellings)	2 per DU
Restaurant and Taverns	1 per 75 sf GFA
Retail Stores (general)	1 per 300 sf GFA
Utility facilities	1 per employee
Warehouse & distribution center	1 per 600 sf GFA
Wholesale trade	1 per 600 sf GFA

#### E. Loading Standards

- 1) Requirements: At least 1 off-street loading space shall be provided per 40,000 sf of GFA or fraction thereof of industrial, wholesale, retail, service, or other establishments where the delivery of goods is customary to their operation.
- 2) Dimensions: Loading spaces or bays shall be at least 10 feet wide and 30 feet deep and 14 feet in height exclusive of driveways and maneuvering space.
- 3) Access: Each off-street loading space shall be designed with appropriate means of vehicular access to the use it serves and to a street or alley.

#### **6.07 Water and Sewer**

The property owner shall connect all buildings to a public water and sewer system pursuant to the Town's water and sewer connection policies. Where a public system is not reasonably available, a private or community system in compliance with applicable county or state standards shall be provided.



## Article 7. District Regulations

### 7.01 Use District Regulations

#### A. Applicability:

This section applies development standards to the various use districts established under Section 5.02(C). The Table of Uses identifies what uses are permitted (as a permitted use or special use) or prohibited in each use district.

#### B. Uses Not Mentioned

- 1) Uses not listed in the Table of Uses are prohibited unless the Zoning Administrator interprets it to be substantially similar to and compatible with a listed use.
- 2) Interpretation of Similar Uses: The Zoning Administrator shall consider similarities in type (retail, residential, manufacturing processes, etc.) and character in terms of density, parking and loading demands, traffic by type and volume to a listed use. The purpose of the zoning district shall also be considered. The Town may consult the NAICS Codes, General Statutes, or other credible sources or with surrounding jurisdictions for guidance.
- 3) Insertion into Table of Uses: The Zoning Administrator shall submit to the Board of Commissioners a recommendation on whether the Table of Uses should be amended to add a use deemed similar to the listed use as soon as practical after the Zoning Administrator has made a determination regarding a particular use under section 7.01(B)(2) above.
- 4) Provision for Unlisted Use: If the proposed use is not similar to a listed use, the applicant may request an appropriate amendment pursuant to Section 4.12.
- 5) Appeals from the Zoning Administrator's interpretations may be filed pursuant to Section 4.11.

#### C. Table of Uses

- 1) Table Key: The key to reading the table of uses permitted in each use district is as follows:
  - P** Permitted uses: The letter "P" indicates that the listed use is permitted with a Zoning Permit without a public hearing.
  - S** Special uses: The letter "S" indicated that the listed use is permitted with a Special Use Permit issued pursuant to Section 4.07.
  - Prohibited uses: A dash symbol indicates that a use is prohibited in the district.

*The column titled "Specific Use" cross-references the sections under Article 7 that apply additional standards to that specific use.*

- 2) Table of Uses: Principle uses and their customary accessory uses shall be permitted as indicated in the following table.

Use Category	R-1	R-2	CC	MU	LI	OC	Specific Use
<b>Residential use</b>							
Single-family detached dwelling	P	P	--	--	--	--	
Family Care Home	P	P	--	--	--	--	See 8.04
Temporary Health Care Structure	P	P	P	P	--	--	See 8.11
Duplexes (two-family) dwellings	S	P	--	--	--	--	
Multi-family and Townhomes	--	S	S	S	--	--	
Manufactured homes (Class A)	--	P	--	--	--	--	See 8.07(B)
Manufactured Home Park	*	*	--	--	--	--	*"S" in MHP Overlay District
<b>Commercial uses</b>							
Administrative and support services	--	--	P	P	--	--	
Agricultural supply stores	--	--	S	P	--	--	
Automotive sales and service	--	--	S	P	P	--	
General retail up to 10,000 sqft	--	--	P	P	--	--	
General retail over 10,000 sqft	--	--	S	P	--	--	
Indoor recreation facilities	--	--	S	P	--	--	
Childcare Center	--	--	P	P	--	--	
Gas Station	--	--	P	P	--	--	
Equipment rental and leasing	--	--	S	P	--	--	
Financial Institutions (banks, credit unions, etc.)	--	--	P	P	--	--	
Fitness centers or health clubs	--	--	P	P	--	--	
Funeral services	--	--	S	S	--	--	
Grocery stores	--	--	P	P	--	--	
Hardware/building supply up to 10,000 sqft	--	--	P	P	--	--	
Hardware/building supply over 10,000 sqft	--	--	S	P	--	--	
Kennels	--	--	--	S	S	--	See 8.06
Recreational firing range	--	--	--	S	S	--	
Medical offices or clinics	--	--	P	P	--	--	
Mini-storage	--	--	S	P	--	--	
Personal care services	--	--	P	P	--	--	
Pharmacy (Drug Store)	--	--	P	P	--	--	
Professional services	--	--	P	P	--	--	
Real estate agents and brokers	--	--	P	P	--	--	
Restaurant without drivethrough	--	--	P	P	--	--	
Restaurant with drivethrough	--	--	--	S	--	--	
Event Venue	--	--	P	P	P	--	
Sexually oriented business	--	--	--	--	S	--	See 8.09

Use Category	R-1	R-2	CC	MU	LI	OC	Specific Use
<b>Industrial Uses</b>							
Food & Beverage Manufacturing	--	--	--	--	P	--	
Light Industrial Manufacturing	--	--	--	--	P	--	
Heavy Industrial Manufacturing	--	--	--	--	S	--	
Junkyards or Salvage Yards	--	--	--	--	S	--	
Recycling drop-off facility	--	--	--	--	S	--	
Warehousing and Storage	--	--	S	S	P	--	
<b>Public and Institutional uses, Utilities and Communications</b>							
Cemeteries	S	S	S	S	S	--	
Civic, social, or fraternal organizations	S	S	P	P	P	--	
Community Center	S	S	P	P	P	--	
Government offices	S	S	P	P	P	--	
Hospitals	--	--	S	S	S	--	
Museums	S	S	P	P	P	--	
Park and recreation facilities	S	S	P	P	P	S	
Postal services	--	--	P	P	P	--	
Public Library	--	--	P	P	P	--	
Public safety (fire, police, EMS, etc.)	S	S	P	P	P	--	
Religious Institutions	P	P	P	P	P	--	Parking/road capacity allowing
Schools (elementary and secondary)	S	S	P	P	P	--	
Utility, Power Transmission, and Communication Infrastructure	S	S	S	S	P	--	
Water/Sewage Treatment and Storage	S	S	S	S	S	--	
<b>Agricultural uses</b>							
Farming (crop production)	P	P	P	P	P	--	
Nurseries or Greenhouses	P	P	P	P	P	--	

#### D. Dimensional Standards

Zoning District	R1	R2	CC	LI
Maximum Density/built-upon area	Shall comply with density and built-upon limitations of Watershed Regulations.			
Minimum frontage ( feet)	25	20	25	25
Minimum lot width (feet)	100	70	No minimum width	
Minimum setback (feet)				
Front yard	25	20	20	25
Side yard	15	10	10	20
Rear yard	25	20	15	20
Maximum building height (feet)	45	45	45	45

## 7.02 Exemptions

### A. Generally

The following structures are exempted from the requirements of this ordinance: water and sewer pump stations, utility facilities, curbing, play apparatus other than in a park or with a multi-family residential use. The following structures are exempted from the setback and set-in requirements: gate attendant sheds and industrial loading docks. The following uses are specifically not excluded from (but are included within) this ordinance: statues, sculptures or other artistic objects exceeding eight (8') feet in height (including pedestals) above ground level which are not set back at least 1 foot (1') per linear foot in height from any property line, fences, gates, swimming pools, storage sheds, garages, accessory workshops. Some improvements such as roof mounted solar panels or gravel driveway additions are not discussed in this ordinance but must still go through the town's permitting process.

### B. State-Owned Land

In accordance with N.C.G.S. 160D-913, this Ordinance is applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions. Notwithstanding the provisions of any general or local law or ordinance, except as provided in Article 9, Part 4 of N.C.G.S. 160D, no land owned by the State of North Carolina may be included within an overlay district or a conditional zoning district without approval of the Council of State or its delegate.

### C. Bona Fide Farms

The provisions of this Ordinance shall not apply to existing bona fide farms. A bona fide farm is any tract of land containing at least three acres which is used for the production of, or activities relating to, or incidental to, the production of crops, fruit, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural or forest products having a domestic or foreign market.

### D. Subdivision Exemptions

The following are not included within the definition of a subdivision, and are not subject to the regulations of this Ordinance:

- 1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown on its subdivision regulations.
- 2) The division of land into parcels greater than ten acres where no street right-of-way decision is involved.
- 3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- 4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown

in its subdivision regulations.

- 5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the N.C.G.S.

### **7.03 Manufactured Home Park Overlay Regulations**

RESERVED

### **7.04 Special Flood Hazard Overlay Regulations**

See the Town of Stem Flood Damage Mitigation Ordinance for development in Flood Hazard areas.

## Article 8. Specific Use Regulations

### 8.01 Purpose

This article establishes regulations for specific land uses that are designed to protect surrounding property values, to protect the public health, safety, and welfare, and implement the comprehensive plan. These regulations are in addition to the procedures and standards established elsewhere in this ordinance.

### 8.02 Accessory Uses

#### A. Generally

- 1) Where a principal use is permitted, its customary accessory use and structure shall also be permitted in compliance with this ordinance.
- 2) Accessory uses shall be incidental and subordinate to the principle use it serves.
- 3) No detached accessory building shall be larger or exceed the height of the principal structure.
- 4) Detached accessory structure shall be located behind the front building line of the principal structure.
- 5) Detached garages and roofed accessory structures physically connected to the principal structure on a site must meet setback regulations for the principal structure.

#### B. Establishment

No accessory structure or use shall be constructed or established on a lot before construction or establishment of the principle use or structure. No accessory building or use shall be permitted on a vacant lot.

#### C. Detached Residential Structures

- 1) Detached residential accessory structures include, **but are not limited to:** sheds, barns, lean-tos, shelters, shops, pre-manufactured buildings, carports and detached garages.
- 2) A maximum of one (1) detached residential accessory structure is permitted per lot except that a lot may have both a carport and one (1) other detached accessory structure or one (1) detached garage and one (1) detached accessory structure except for a carport.
- 3) The structure if less than 200 square feet may be constructed within five (5) feet from the rear and side property lines.
- 4) No detached accessory structure shall be closer than 20 feet from a dwelling on an adjacent property.

### 8.03 Cluster Development

Must comply with the watershed protection ordinance adopted by the Town and approved by the appropriate State authority.

#### **8.04 Family Care Home**

Family care home means a home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities.

Persons with disabilities means a person with temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in N.C.G.S. 122C-3(11B).

A family care home shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts. No local government may require that a family care home, its owner, or operator obtain because of the use, a special use permit, or variance from any such zoning regulation provided however, that a local government may prohibit a family care home from being located within a one-half mile radius of an existing family care home.

A family care home shall be deemed a residential use of property for the purposes of determining charges or assessments imposed by local governments or businesses for water, sewer, power, telephone service, cable television, garage and trash collection, repairs or improvements to roads, streets and sidewalks, and other services, utilities and improvements.

No family care home shall be permitted within a one-half mile radius of an existing family care home.

#### **8.05 Home Occupations**

##### **A. Purpose**

The purpose of this section is to: (1) allow home occupations as an accessory use in an occupied dwelling unit; (2) ensure that such home occupations are compatible with nearby residential properties; (3) ensure that public infrastructure is not burdened beyond what is normally associated with residential uses; and (4) allow residents to use their homes as places to enhance their economic well-being.

##### **B. Standards**

- 1) The occupation shall be secondary to the residential occupancy of the dwelling.
- 2) The principal dwelling shall not be altered in a way that changes the residential character of the dwelling.
- 3) The total area used for the home occupation shall not exceed 30 percent of the gross floor area of the dwelling.
- 4) The use shall be conducted entirely inside the dwelling.
- 5) The home occupation must primarily employ a resident of the home; no more than 1 nonresident shall be employed at the site of the home occupation.

- 6) Outdoor storage of equipment or materials used in connection with a home occupation is prohibited.
- 7) A home occupation shall not generate noise, solid waste, vibration, smoke, dust, odors, heat, glare, electrical interference or other nuisance noticeable at or beyond the property line.
- 8) One non-illuminated sign with a maximum area of 4 square feet may be mounted flush against the dwelling.
- 9) The home occupation shall not generate traffic other than what is customary for the residential use. Parking shall be provided in the driveway.

## **8.06 Kennels**

Commercial Kennels shall be located at least 200 feet from the nearest dwelling on a separate lot. No outdoor run area shall be located within 50 feet of any lot line. Facilities shall be constructed and operated in a manner that alleviates detrimental effects on persons occupying or patronizing adjacent buildings. All buildings shall be soundproofed and all exercise yards shall be walled and constructed in such a manner so as to prevent normal animal noises from disturbing nearby uses.

## **8.07 Manufactured homes**

### **A. Generally**

- 1) At the time of construction, a manufactured home shall be constructed and certified as complying with the HUD Codes.
- 2) The manufactured home shall be set up in accordance with the NC Department of Insurance standards. A continuous, permanent, masonry foundation or masonry curtain wall, un-pierced except for required ventilation and access, shall be installed under the perimeter of the manufactured home.
- 3) Stairs, porches, entrance platforms, ramps, and other means of entrance and exit shall be constructed in accordance with the NC Department of Insurance standards, and shall be attached firmly to the primary structure and anchored securely to the ground; and
- 4) The moving hitch, wheels and axles, and transporting lights shall be removed.

### **B. Class A Home (Doublewide)**

In addition to the general standards listed above, a Class A manufactured home shall comply with the following:

- 1) The manufactured home shall have a length that does not exceed 4 times its width measured along the longest axis and width measured at the narrowest part of the other axis.
- 2) The pitch of the roof of the manufactured home shall have a minimum vertical rise of 2.2 feet for each 12 feet of horizontal run. The roof shall be finished with a type of shingle that is commonly used in residential construction.
- 3) Roof structures shall have an eave projection of at least 6 inches, which may include a



gutter.

- 4) The exterior siding shall consist predominantly of vinyl or aluminum horizontal lap siding, whose reflectivity does not exceed that of gloss white paint, wood, or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.

#### C. Class B Home

A manufactured home that complies with all of the requirements of paragraph (A) above but fails to comply with any one of the criteria for a Class A home shall hereafter be designated as a Class B manufactured home. No Class B home shall be permitted outside of a manufactured home park.

### **8.08 Outdoor Storage and Display**

#### A. Generally

This section applies to the keeping, in an unroofed area, of any goods, material, or merchandise in the same place for more than 24 hours. Outdoor storage and display areas shall be permitted only as an accessory to the principal use on the lot.

#### B. Outdoor Storage

- 1) Location: Storage areas are restricted to the rear and side yards of the principal structure on the lot.
- 2) Screen: Storage areas shall be screened from view from the street and adjacent properties. The height of the stored material shall not exceed the height of the screen. The maximum height of a screen used for this purpose is 8 feet.

#### C. Outdoor display areas

- 1) Items displayed shall be those lawfully sold inside the building on the property. Vehicles displayed for sale, lease or rent must be associated with an automobile dealership on the lot.
- 2) Outdoor display areas shall be separated from the right-of-way and property lines by a 5-foot buffer strip except at permitted access points. Parking spaces used for outdoor display shall not count towards meeting parking requirements.

### **8.09 Sexually Oriented Businesses**

#### A. Purpose

To protect the general safety and welfare of the community from the adverse secondary effects that the location of sexually oriented businesses can have on a neighborhood, including but not limited to deterioration and blight through increased crime and other impacts, as has been documented by the State of North Carolina, other North Carolina municipalities and other jurisdictions.

#### B. Applicability

The provisions of this Section apply to all Sexually-Oriented Businesses. The use of land for a sexually oriented business shall be permitted as set forth in Section 7.01(C)(Table of Uses) subject to the criteria below.

#### C. Definitions

**Sexually-oriented Businesses:** means any “adult establishment,” as defined in North Carolina General Statute N.C.G.S. 14-202.10(2). This definition includes adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult live entertainment businesses or massage businesses. These uses are further defined in N.C.G.S. 14-202.10 and the definitions are adopted by reference.

#### D. Location Criteria

- 1) No sexually-oriented business shall be located within two thousand (2,000) feet of any other sexually-oriented business.
- 2) No sexually-oriented business shall be located within two thousand (2,000) feet of a school, day care or adult day care center, public or private recreation center, a church or a park used by the public for recreational purposes.
- 3) No sexually-oriented business shall be located within two thousand (2,000) feet of any Residential Zoning District or residentially developed property. The distance shall be measured from the subject property to the nearest point of the Residential District or property, whether such district or use is located.

#### E. Signs and Displays

Signage shall be regulated in accordance with Article 9 (Sign Regulations), except that no sexually oriented printed material, slide, video, photograph, written text, live show, or other sexually oriented visual display shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.

#### F. Hours of Operation

Hours of operation shall be limited to 2 pm to 2 am the following day.

### **8.10 Temporary Uses and Structures**

#### A. Generally

No temporary use shall be permitted for more than 1 year. A temporary use shall be removed upon expiration of the permit issued for such temporary use unless otherwise stated in this ordinance.

#### B. Temporary Sales

- 1) Farmers market, Christmas tree sales, and other seasonal or agricultural products may be established as a temporary use in any non-residential district with a zoning permit
- 2) The duration shall not exceed 60 days per lot in a calendar year.

### C. Construction Trailers

A temporary trailer or mobile home may be used as a contractor's office or storage shed during the construction phase of a project. It shall be removed when construction is no longer active or a building permit is no longer valid. The trailer shall be placed on the property to which it is appurtenant.

## 8.11 Temporary Health Care Structures

Temporary health care structures shall be permitted as an accessory use in accordance with the Table of Permitted Uses, subject to the following standards:

- A. Placing a temporary family health care structure on a permanent foundation shall not be required or permitted.
- B. The Town shall consider a temporary family health structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single family residential zoning district on lots zoned for single family detached dwellings.
- C. The Town shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single family residential zoning district on lots zoned for single family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.
- D. Only one temporary family health care structure shall be allowed on a lot or parcel of land. The temporary family health care structures under subsections (b) and (c) of this section shall not require a special use permit or be subjected to any other local zoning requirements beyond those imposed upon other authorized accessory use structures, except otherwise provided in this section. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.
- E. Any person proposing to install a temporary family health care structure shall first obtain a permit from the Town. The Town may charge a fee in accordance with the Town's fee schedule. The Town may not withhold a permit if the applicant provides sufficient proof of compliance with this section. The Town may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the Town of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation and annual renewal of the doctor's certification.
- F. Notwithstanding subsection (I) of this section, any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, including Article 11 of N.C.G.S. 160D, as if the temporary family health care structure were permanent real property.
- G. No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure

or elsewhere on the property.

- H. Any temporary family health care structure installed pursuant to this section shall be removed within 60 days after the date on which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within 60 days of its removal, as applicable.
- I. The Town may revoke the permit granted pursuant to subsection (E) of this section if the permit holder violates any provision of this section or N.C.G.S. 160D-915. The local government may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or N.C.G.S. 160D-915.
- J. Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

## **Article 9. Subdivision Regulations**

### **9.01 General Provisions**

- A. No division of land within a Water Supply Watershed as detailed on the Watershed Map shall be a legal subdivision until such subdivision has been detailed on a survey plat according to the provisions below. Furthermore, no survey plat which reflects a subdivision of land shall be filed or recorded by the Granville County Register of Deeds Office until it has been approved in accordance with the provisions of this Article.
- B. Subdivision of a property into up to five lots may be approved administratively by the Zoning Administrator. Subdivision of a property into six or more lots shall require a Special Use Permit. See Section 4.07.
- C. The approval of a plat does not constitute or effect the acceptance by Stem or the public of the dedication of any street or other ground, easement, right-of-way, public utility line, or other public facility shown on the plat and shall not be construed to do so.
- D. All subdivisions shall conform with the mapping requirements contained in N.C.G.S. 47-30.
- E. After the effective date of this Ordinance, all plats detailing subdivisions of land with the Town of Stem shall be prepared and approved pursuant to this and all other ordinances which may apply to the subdivision of land within the jurisdiction of Stem and then recorded in the Granville County Register of Deeds office.

### **9.02 Subdivision Application and Review Procedures**

- A. Subdivision applications shall be filed with the Subdivision Administrator. The application shall include a completed application form and supporting documentation deemed necessary by the Watershed Administrator or the Stem Watershed Review Board, and the appropriate fees. All proposed subdivisions within Stem shall be reviewed prior to approval and recordation in the Register of Deeds Office by submitting the mylar and blue line copies (or electronic copies when allowable by Granville County), including a vicinity map with the location sited, to the Watershed Administrator. All subdivision plats for land within the watershed area shall also include the following information:
  - a north arrow;
  - a graphic scale;
  - a vicinity map with the project sited;
  - the owner's name;
  - the name of the project;
  - the date of the original plat preparation and any revisions;
  - the names of adjoining property owners;
  - the name and address of the registered land surveyor, engineer, and/or landscape architect responsible for preparation of the plat;
  - the watershed area in which the property is located;

- the depiction and numerical summarization of the total built-upon area with relative accuracy if the property is developed with multi-family, cluster residential, or non-residential uses;
  - the location of all existing and proposed (if known) buildings and/or structures, including signs, fences, and other similar objects with relative accuracy;
  - the location of any parking, equipment, material, recreation storage, floodplain, and other similar areas;
  - the names and/or location of all existing and proposed streets, culverts, water courses, underground electrical lines, water and sewer pipes, and other similar utilities;
  - the location of all existing (with deed references) and proposed easements of any type;
  - the approximate location of any existing and/or proposed buffer and/or reserved, open space, non- disturbed area;
  - any other information required by the watershed Administrator and/or the Watershed Review Board
- B. The application shall be accompanied by the mylar and six (6) blue line copies of the subdivision plat (or electronic copies when allowable by Granville County). The Watershed Administrator may exercise a period of ten (10) business days to review all subdivision plats. The Administrator may then approve, disapprove, or forward the subdivision plat to the Watershed Review Board.
- C. The Watershed Administrator shall review the completed application and subdivision plat. All areas of the proposed subdivision which are to remain in a vegetated or natural state or as open space shall clearly be marked on the plat. The Watershed Administrator may provide the opportunity for any public agencies to review and make recommendations.
- D. The Watershed Administrator may grant approval or may submit the subdivision plat and recommendations to the Watershed Review Board for further review and final action. The Watershed Review Board shall either approve, approve conditionally, or disapprove each application by a majority vote of the members present and voting. First consideration of the application shall be at the next regularly scheduled meeting of the Board after receipt of a complete application, provided there is adequate time to place it on the agenda and post public notice. The Board shall take final action within forty-five (45) days of its first consideration. The Watershed Administrator or the Board may provide public agencies an opportunity to review and make recommendations. However, failure of the agencies to submit their comments and recommendations shall not delay the Board's action within the prescribed time limit. Said public agencies may include, but are not limited to, the following:
- 1) The district highway engineer with regard to proposed streets and highways.
  - 2) The director of the Health Department with regard to proposed private water system or sewer systems normally approved by the Health Department.
  - 3) The State Division of Water Quality with regard to proposed sewer systems normally approved by the Division, engineered storm water controls or storm water management in general.
  - 4) Any other agency or official designated by the Watershed Administrator or Watershed Review Board.

- E. If the Watershed Administrator or the Watershed Review Board approves an application and subdivision plat, such approval shall be indicated on the mylar and blue line copies of the plat (or electronic copies if allowable by Granville County) by the following certificate and signed by the Watershed Administrator, Mayor, or other authorized member of the Board, whichever is applicable:

WATERSHED CERTIFICATE OF APPROVAL

I certify that the subdivision of property shown hereon complies with the Watershed Protection Ordinance of Stem, North Carolina.

\_\_\_\_\_ Date

\_\_\_\_\_ Watershed Administrator or Mayor,  
Town of Stem Watershed Review Board

***Notice: This property is located within a Public Water Supply Watershed and development restrictions may apply. Any further subdivision and/or development of this property shall meet the requirements of the Town of Stem Watershed Protection Ordinance.***

The Watershed Administrator and/or the Watershed Review Board may also require the placement of any notes, warnings, or explanations on the plat prior to signature of approval.

- F. If the Watershed Review Board disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the application and entered in the minutes. The subdivider may make changes and submit a revised plan which shall constitute a separate request for the purpose of review.
- G. All subdivision plats shall comply with the recording requirements of the Granville County Register of Deeds Office.
- H. Any request for subdivision approval under the requirements of this Ordinance shall require the subdivider to submit the mylar and appropriate blue line copies (or electronic copies when allowable by Granville County). The applicant shall be responsible for submitting the plat to the Granville County Register of Deeds and paying any associated fees charged by the County.

**9.03      Subdivision Standards and Required Improvements**

- A. All subdivisions and development projects shall provide adequate building space on each lot in accordance with the development standards contained in Article V of this Ordinance. Areas which are smaller than the minimum required residential development or are set aside as open space shall be identified numerically and graphically on the plat as “PERMANENTLY RESERVED OPEN SPACE – NO IMPERVIOUS DEVELOPMENT ALLOWED”.
- B. Storm Water Drainage Facilities. The application shall be accompanied by a description of the proposed method of providing storm water drainage demonstrating compliance with all applicable State and local regulations. The subdivider shall provide a drainage system that diverts storm water runoff away from surface waters and incorporate best management

practices to minimize water quality impacts.

- C. Erosion and Sedimentation Control. The application shall, where required, be accompanied by a written statement that a Sedimentation and Erosion Control Plan has been submitted to and approved by the North Carolina Division of Land Quality.
- D. Roads constructed in watershed buffer areas. Where possible, roads should be located outside of watershed buffer areas. Roads constructed within these areas shall be designed and constructed so as to minimize impact on water quality.
- E. The town may at its discretion require performance bonds for stormwater control measures, roads, walking trails, or other amenities. See section 20.24.A.

#### **9.04 Construction Procedures**

- A. No construction or installation of improvements shall commence in a proposed subdivision until a preliminary subdivision plat has been approved by the Watershed Review Board or by the Watershed Administrator.
- B. No building or other permits shall be issued or erection of a structure on any lot not of record at the time of adoption of this Ordinance until all requirements of this Ordinance have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Watershed Administrator to provide for adequate inspection.

#### **9.05 Revision of Approved Subdivisions**

Following final subdivision approval, all projects approved under the provisions of this Ordinance shall be developed according to the approved subdivision plat. Any further subdivision, resubdivision, development, or change shall not be allowed unless a revised subdivision plat is presented and approved under the provisions of this Ordinance.

#### **9.06 Penalties for Transferring Lots in Unapproved Subdivisions**

Any person who, being the owner or agent of the owner, of any land located within the jurisdiction of Stem, hereafter subdivides his land in violation of this Ordination or transfers or sells land by reference to exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Ordinance and recorded in the Office of the Register of Deeds, shall be guilty of a misdemeanor pursuant to N.C. Gen. Stat. 160D-807(a). The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. Stem may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this Ordinance.



## **Article 10. Sign Regulations**

### **10.01 Intent**

It is the intent of this section to authorize the use of signs with regard to size, layout, style, typography, legibility, and arrangements compatible with their surroundings; appropriate to the identity of individual properties, occupants, and/or the community; and as appropriate to traffic safety.

### **10.02 Applicability**

- A. No sign visible from the public right-of-way, whether exterior to or interior to a structure, shall be erected, displayed, or substantially altered (unless specifically exempted) except in accord with the provisions of this ordinance and until a zoning compliance permit has been issued for the sign.
- B. Except where expressly exempted in this Section, all signs must be located on the same lot as the permitted use and be clearly incidental, customary and commonly associated with the operation of the permitted use.
- C. All signs over 25 square feet in surface area will require a Special Use Permit. See section 4.07.

### **10.03 Signs in the Right-of-Way**

- A. Signs must not encroach into the public right-of way unless expressly exempted in this Section.
- B. Wall signs, awning signs, canopy signs, projecting signs, crown signs and shingle signs may encroach over the public sidewalk but must not encroach on or over any streets or alleys. All signs must be a minimum of 24 inches inside the curb line or edge of pavement, whichever is greater.

### **10.04 Signs Exempt from Regulation**

The following signs are exempt from regulation and permit requirements under this Section, provided that signs comply with the provision of this section and are not illuminated.

- A. Signs bearing only property identification numbers and names, post office box numbers, names of occupants of the premises on which the signs are located, or other identification of premises not of a commercial nature, provided the signs are not illuminated and do not exceed 2 signs per zoning lot and 2 square feet in area per display surface.
- B. Flags and insignia of a government, when not displayed in connection with a commercial promotion.
- C. Legal notices, identification and informational signs, and traffic directional or regulatory signs erected by or on behalf of a governmental body.
- D. Memorial signs, plaques or tablets, and names and construction dates of buildings when cut into any masonry surface.

- E. Signs directing and guiding traffic and parking on private property on which the signs are located, provided such signs are not illuminated, bear no advertising, and do not exceed 4 square feet in area per display surface.
- F. Real estate signs advertising the sale, rental, or lease of the premises, provided that, in addition to complying with the support and sign height standards for a cantilevered ground sign, such signs:
  - 1) Do not exceed 1 sign per street frontage and 4 square feet in area per display surface for property zoned residential; and
  - 2) Do not exceed 1 sign per street frontage and 16 square feet per display surface for property zoned non-residential or located within an approved planned development.
- G. Residential property management sign permanently fixed to the building facade, including contact information, building address and/or building name, provided that the signs do not exceed 1 sign per building facade and 4 square feet in area per display surface, and are attached to a residential structure with 7 or less dwelling units.
- H. Construction site identification signs whose message is limited to project name, identification of architects, engineers, contractors and other individuals or firms involved with the construction, the name of the building, the intended purpose of the building and the expected completion date. Construction site identification signs may not exceed 4 square feet in area per display surface and 6 feet in height for single-family or duplex construction; and 32 square feet in area per display surface and 8 feet in height for multifamily or non-residential construction.

The signs must be non-illuminated. Construction site identification signs must not exceed 1 sign per construction site, must not be erected prior to the issuance of a building permit, and must be removed within 7 days of issuance of a certificate of occupancy.

- I. Fence wrap signs when affixed to perimeter fencing at a construction site. Such signs must be removed at the time a Certificate of Occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. No fence wrap affixed pursuant to this exemption may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.
- J. Temporary political signs advertising candidates or election issues, provided such signs do not exceed 4 square feet in area per display surface, and provided that any such signs in the public right-of-way are not erected prior to 30 days before the beginning date of "one-stop" early voting under N.C.G.S. 163-227.2 and ending on the 10th day after the primary or election day. The NC Department of Transportation may remove any signs erected without authority or allowed to remain beyond the deadline established in this paragraph. Signs in the right-of-way must be placed in compliance with the following:
  - 1) The sign permittee must obtain the permission of any property owner of a residence, business, or religious institution fronting the right-of-way where a sign would be erected.
  - 2) No sign is permitted in the right-of-way of a fully controlled access highway.
  - 3) No sign may obscure motorist visibility at an intersection.

- 4) No sign may be higher than 42 inches above the edge of the pavement of the road.
  - 5) No sign may be larger than 18 inches by 24 inches.
  - 6) No sign may obscure or replace another sign.
- K. Yard or garage sale signs announcing yard or garage sales, provided the signs do not exceed one sign per site of the sale and 4 square feet in area per display surface, and are removed within 7 days of posting.
  - L. Public event announcements by public or nonprofit organizations of special events or activities of interest to the general public, provided such signs do not exceed 1 sign per site of such events or activities and 12 square feet in area per display surface, and are removed within 14 days of posting.
  - M. Temporary signs, provided such signs are on the property in which the business is located, do not exceed a total of 32 square feet of display area per business. Temporary signs include, wall signs or free standing signs, including feather signs, not permanently attached to the ground. Signs not attached to the building may not exceed 8 feet in height. Unless exempt otherwise, signs regulated in Section 10.5 are prohibited as temporary signs.
  - N. A sign held by or attached to a human, located in front of the business, during business hours, for the purposes of advertising or otherwise drawing attention to an individual, business, commodity, service or product. This may also include a person dressed in costume for the purpose of advertising or drawing attention to an individual, business, commodity, service or product.
  - O. Signs on registered, licensed vehicles that are parked in a manner that serves the purpose of advertising a business, is generally located in front of the business, and is parked in a standard size parking space.
  - P. Information kiosks or bulletin boards erected by or on behalf of a governmental body on public property or rights-of-way for the display of handbills or posters of community interest, provided such kiosks or bulletin boards contain no more than 6 square feet in area per sign display surface, and a maximum of 72 square feet per kiosk or bulletin board.
  - Q. Signs stating that a business (other than a home occupation) is open, provided that there is no more than one such sign per business establishment, any illumination is steady (does not blink or flash), and the sign does not exceed 2 square feet in display area.
  - R. Non-commercial signs not covered by other exemptions listed in this section, provided such signs are located on private property and are non-illuminated.

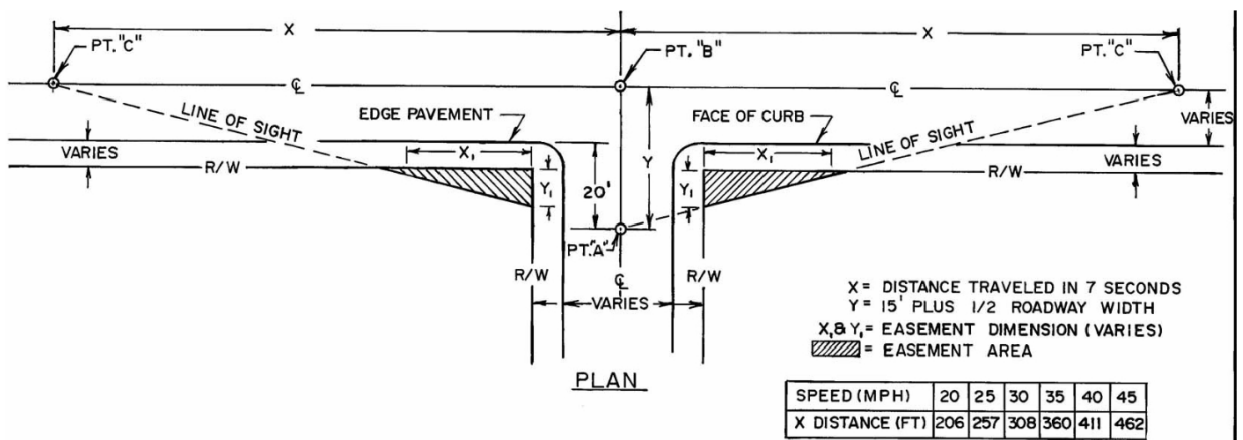
### **10.05 Prohibited Signs**

The following signs are prohibited except where they are exempt from regulation in Section 10.4 above.

- A. Moving signs. Animated, rotating, or other moving or apparently moving signs, including vehicular billboards.
- B. Wind signs. Devices consisting of banners, streamers, pennants, wind-blown propellers,

balloons, inflatable devices, strung light bulbs and similar installations, unless approved by the Zoning Administrator for non-commercial, non-profit enterprises. A feather sign not complying with Section 10.4(M) Temporary Sign standards is considered a prohibited sign.

- C. Digital changeable copy. Digital changeable copy that scrolls, blinks, or flashes, including but not limited to LCD, LED and any similar technology, except as used to display time and temperature or gas price.
- D. Signs that are not permanent. Any sign that is not permanently affixed to the ground or a structure (except sidewalk signs), including but not limited to trailer signs. Any sign that does not comply with Section 10.4(M) Temporary Signs standards is considered a prohibited sign.
- E. Traffic safety precautions. Notwithstanding any other provision in this ordinance, the following restrictions shall apply to signs in order to preserve the safety of pedestrian, bicycle, and vehicular movement:
  - 1) No sign may make use of the words "STOP", "SLOW", "CAUTION", "DANGER", or any other word, phrase, symbol or character in such manner as is reasonably likely to be confused with traffic directional and regulatory signs.
  - 2) Except as used to display time and temperature, no sign may contain flashing lights.
  - 3) No sign may be erected so that by its location, color, nature or message is likely to be confused with or obstruct the view of traffic signals or signs, or is likely to be confused with the warning lights of an emergency or public safety vehicle.
  - 4) No sign, or part of a sign, may be located within a sight distance area established below.



## **Article 11. Agriculture, Silviculture, and Transportation**

### **11.01 Agriculture**

The Granville Soil and Water Conservation District Office shall be the designated management and enforcement agency responsible for implementing the agricultural activity rules described in the Watershed Protection rules, Chapter 143, Article 21. Agricultural activities shall be subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation, and Trade act of 1990 (Public Law 1.01-24).

### **11.02 Silviculture (Forestry)**

The Granville County Forest Service Office of the North Carolina Division of Forest Resources shall be the designated management and enforcement agency responsible for implementing the silviculture rules described in the Watershed Protection Rules, Chapter 143, Article 21. Silviculture activities shall be subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15A NCAC 0.0101-.0209).

### **11.03 Transportation**

The construction of new roads and bridges should minimize built-upon area, divert storm water away from surface supply waters as much as possible, and employ Best Management Practices to minimize water quality impacts. The construction of new roads in a critical area should be avoided, if possible. Stem shall act in such a way to attain these goals when private roads and bridges are involved. The North Carolina Department of Transportation shall employ Best Management Practices as outlined in their document “Best Management Practices for the Protection of Surface Waters” when involved in road, bridge, and other construction.

## **Article 12. General Provisions of Watershed Protection**

### **12.01 Public Health, In General**

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety, and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or 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 storm water runoff; or any other situation found to pose a threat to water quality.

### **12.02 Application of Watershed Protection Regulations**

- A. 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.
- B. No area required for the purpose of complying with the provisions of this Ordinance shall be included in the area required for another building.
- C. Every residential building hereafter erected, moved, or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in Section 12.04.
- D. 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.

### **12.03 Abatement**

- A. The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
- B. The Watershed Administrator shall report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations.
- C. Where the Watershed Administrator or the Watershed Review Board finds a threat to water quality and the public health, safety, and welfare, they may institute any appropriate action or proceeding to restrain, correct, or abate the conditions and/or violation.

### **12.04 Existing Development**

Any existing development as defined in this Ordinance may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this Ordinance; however, the built-upon area of the existing development is not required to be included in the density calculations, except as noted. Watershed protection permits shall be required for all development projects or changes.

- A. Vacant or Occupied Single Family Residential Lots. This category consists of vacant or

occupied single family residential lots for which plats or deeds have been legally recorded in the Office of the Granville County Register of Deeds prior to the adoption of this Ordinance (lots of record), and on which an activity, structure, or land use may or may not have been established. These vacant or occupied lots may be used for single family residential and accessory uses in the designated watershed areas of this Ordinance, provided: The Watershed Administrator issues a watershed protection permit for development of all such lots. In situations where there exists a single family residential lot occupied at the time of the adoption of this Ordinance, or where there existed a vacant single family residential lot which has been developed since the adoption of this Ordinance, and the use of the property is proposed to be changed from single family residential to a multi-family, cluster residential, or non-residential use, such change shall require that the entire project meet the built-upon area provisions for the particular watershed area.

- B. Other Vacant Lots. This category consists of vacant multi-family, cluster residential, and non-residential lots for which plats and deeds have been legally recorded in the Office of the Granville County Register of Deeds prior to the adoption of this Ordinance (lots of record), and on which no activity, structure, or land use has been legally established. These vacant lots may be developed for any of the uses allowed in the watershed area in which it is located, provided the following: The Watershed Administrator is authorized to issue a watershed protection permit only when the proposed activity, structure, or land use complies with all relevant provisions of this Ordinance.
- C. Other Occupied Lots. This category consists of occupied multi-family, cluster residential, and non-residential lots for which plats or deeds have been legally recorded in the Office of the Granville County Register of Deeds (lots of record), and which are occupied at the time of adoption of this Ordinance. These lots may continue to be used; however, any change to lot lines or addition or expansion of existing structures and/or built-upon area must meet all requirements of this Ordinance. The use and/or built-upon area existing at the time of adoption of this Ordinance may be changed to any other permitted use and/or location on the property provided the built-upon area is not increased. Any increase in built-upon area must meet the requirements of this Ordinance. The Watershed Administrator is authorized to issue a watershed protection permit only when the proposed activity, change, structure, expansion, or land use complies with all relevant provisions of this Ordinance.
- D. Nonconforming Uses of Land. This category consists of uses existing at the time of adoption of this Ordinance 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 follows:
  - 1) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
  - 2) Such use of land shall be changed only to an allowed use.
  - 3) When such use ceases for a period of at least one year, it shall not be re-established.
- E. Reconstruction of Residential and Non-residential Buildings or Built-upon Areas. No restrictions shall apply to the reconstruction of single-family, non-cluster residential development. Any other existing building built-upon area, or impervious surface area not in conformance with the requirements of this Ordinance that has been damaged or removed

may be repaired and/or reconstructed, provided:

- 1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.
- 2) The amount of built-upon area devoted to the reconstruction may only be increased by the percent of built-upon area allowed for development within the respective watershed.

#### **12.05 Buffer Areas Required**

- A. A minimum of one hundred (100) foot vegetative buffer is required for all new development activities that are considered “bonus development” under Article 15 of this Ordinance; otherwise, a minimum of thirty five (35) foot vegetative buffer shall be required along all perennial waters as indicated on the most recent version of the United States Geological Survey (U.S.G.S.) 1:24,000 (7.5 minute) scale topographic maps. Desirable artificial stream bank or shoreline stabilization is permitted.
- B. No new development shall be allowed within these buffer areas except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should be designed to minimize built-upon area to direct runoff away from surface waters and to maximize the utilization of stormwater Best Management Practices.
- C. These buffer areas may be considered part of the entire project acreage and may be included in the density calculations and/or considered non-built-upon area for the purposes of this Ordinance.

#### **12.06 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:

- A. 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.
- B. 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 Town of Stem as evidence that one or more properties along these boundaries do not lie within the watershed area as delineated on the Watershed Map.
- C. Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from the closest lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the Watershed Map.
- D. Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from the closest lot line, the location of watershed area boundaries shall be construed to be the lot line.
- E. Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to the location of such boundaries. This decision may be appealed to the Watershed



Review Board.

## **Article 13. Watershed Development Regulations**

### **13.01 Establishment of Watershed Area**

The purpose of this Article is to list and describe the watershed areas of Stem herein adopted and as delineated on the Watershed Map.

For the purposes of this Ordinance, the Stem watershed area shall be designated as follows:  
WS-II BALANCE OF WATERSHED AREA – (WS-II-BW) - Lake Rogers / Ledge Creek

### **13.02 Watershed Development Requirements**

The following requirements shall apply within the Stem watershed:

WS-II BALANCE OF WATERSHED AREA – (WS-II-BW) - Lake Rogers / Ledge Creek

- A. **Low density option.** In order to maintain predominantly undeveloped land use intensity, single-family residential uses shall be allowed at a maximum of one dwelling unit per acre (1 du/ac), except with an approved cluster development. All other residential and nonresidential development shall be allowed a maximum of 12% built-upon area. Low density developments shall maintain the pre-development hydrologic response in accordance with Section 20 of this Ordinance (implementing the Falls Lake Rules).
- B. **High density option.** If the development density exceeds the low density requirements above, then permanent stormwater control measures are required in accordance with Section 13.06; new residential development shall be allowed at a maximum of two dwelling units per acre (2 du/ac); residential and nonresidential development density shall not exceed 24% built-upon area. All high-density development will be in accordance with Section 20 of this Ordinance (implementing the Falls Lake Rules).

### **13.03 Allowed Uses**

- A. Residential development, including single family and all other residential.
- B. Non-Discharging Landfills (Discharging Not Allowed).
- C. Sludge Application Sites.
- D. Non-residential development excluding the storage of toxic and hazardous materials unless a site specific spill/failure containment plan is approved and implemented.
- E. New and expanding industrial sites shall incorporate adequately designed, constructed, and maintained spill containment structures if hazardous materials are used, stored, or manufactured on site.

### **13.04 Density and Built-upon Limits**

- A. Single Family Residential development shall adhere to the requirements stated in the density options in Section 13.02.

- B. All multi-family, cluster residential and non-residential development shall not exceed twenty-four percent (24%) built-upon area on a project-by-project basis. For the purposes of calculating built-upon area, total project area shall include the total acreage of the tract on which the project is being developed.

### **13.05 Stormwater Conveyance**

Storm water runoff from all new development shall be transported by vegetated conveyances to the maximum extent practicable. If transportation of stormwater on the site can be practically done by the use of vegetated conveyances, then the standard curb and gutter and storm water collection systems are not allowed. That is, the below listed vegetated swale specifications are required.

#### **A. Vegetative swale requirements**

- 1) A vegetated conveyance device such as a swale shall be used to provide transportation of stormwater runoff. The construction of the swale must provide for even distribution of runoff across the width of the vegetated swale;
  - 2) The slope and length of the vegetative swale shall be designed, constructed, and maintained so as to provide a non-erosive velocity of flow through the swale for the 10-year storm and shall have a slope of five percent (5%) or less, where practicable;
  - 3) Vegetation in swale may be natural vegetation, grasses, or artificially-planted wetland vegetation appropriate for the site characteristics.
- B. Curb outlet systems. In lieu of use of only vegetative swales in these settings, curb and gutter collection systems may be used if below listed curb outlet systems are employed:
- 1) Projects that meet the low-density provisions may use curb and gutter with outlets to convey the storm water to vegetated areas;
  - 2) The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the 10-year storm and velocity of the flow shall be non-erosive;
  - 3) The side slopes of the swales or vegetated areas shall not be steeper than 5:1 (horizontal to vertical). Where this is not practical due to physical constraints, devices to slow the rate of runoff and to encourage infiltration to reduce pollutant delivery shall be provided;
  - 4) The swales or vegetated areas for curb outlet systems shall be designed to extend the maximum length practicable (e.g. 100-foot filter length).

### **13.06 Stormwater Control Measures (SCM)**

- A. SCMs shall be designed, constructed, and maintained so that the project achieves either "runoff treatment" or "runoff volume match" as those terms are defined in Article 21;
- B. For high density projects designed to achieve runoff treatment, the required storm depth shall be one inch. Applicants shall have the option to design projects to achieve runoff volume match in lieu of runoff treatment;
- C. Stormwater runoff from off-site areas and "existing development," as that term is defined in Article XII, shall not be required to be treated in the SCM. Runoff from off-site areas or existing development that is not bypassed shall be included in sizing of on-site SCMs;
- D. SCMs shall meet the design standards set forth in 15A NCAC 02H .1050 - .1062; and

- E. Stormwater outlets shall be designed so that they do not cause erosion downslope of the discharge point during the peak flow from the 10-year storm event as shown by engineering calculations.

## **Article 14. Cluster Residential and Multi-Family Residential Development**

### **14.01 Cluster Development**

Cluster residential development and multi-family residential development shall be allowed in the Stem Watershed Area under the following conditions:

- A. The projects must meet any other development ordinance requirements of the Town of Stem.
- B. Minimum lot size requirements shall not be applicable to cluster residential development projects; however, the built-upon area of a project shall not exceed that allowed for the watershed area in which the property is located and the number of lots created that are associated with the development shall not exceed the maximum allowed under the normal minimum lot size density requirements of the respective watershed area. Applications to develop under the multi-family residential and cluster residential built-upon provisions must be submitted to the Watershed Administrator. The Watershed Administrator may approve the residential development project or forward the application and plans to the Watershed Review Board for consideration and approval.
- C. Development projects proposed under the provisions of this Article shall be designed, applied for, and approved in the same manner as outlined in Article VIII of this Ordinance.
- D. All development and associated built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated storm water flow. Plans to achieve these goals shall be included in the application and will be considered as part of the final approval, as amended.
  - Designs to limit runoff impact should include:
    - 1) The creation of grass swales (berms) between built-upon areas and receiving areas
    - 2) The placement of vegetative buffers, rock-check dams, and other controls between the built upon areas and storm water receiving areas
    - 3) The directing of land disturbing activities and development away from environmentally sensitive areas such as 100-year floodplains, low-lying areas, etc.
    - 4) Maximum preservation of natural area supplemented by the above
- E. The remaining open space of developed property shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners or property owners 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 homeowners or property owners association is not incorporated, a declaration of covenants including a maintenance agreement in a form sufficient to the Town shall be filed in the Granville County Registry prior to the conveyance of any lots in the development. All subdivision plats, site plans, and other documents shall detail the exact location and boundaries of the open space and non-disturbed area.

## Article 15. Bonus Development

### 15.01 Cluster Development

- A. Notwithstanding the standard development provisions of Article 13, it may be permitted that up to ten percent (10%) of the WS-II-BW Watershed Area be developed with projects that are up to seventy percent (70%) built-upon area.
- B. Development projects proposed under the provisions of this Article shall be designed, applied for, and approved in the same manner as outlined in Article 16 of this Ordinance.
- C. All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated storm water flow. Plans to achieve these goals shall be included in the application and will be considered as part of the final approval, as amended.

Designs to limit runoff impact should include:

- 1) The creation of grass swales (berms) between built-upon areas and receiving areas
  - 2) The placement of vegetative buffers, rock-check dams, and other controls between the built upon areas and storm water receiving areas
  - 3) The directing of land disturbing activities and development away from environmentally sensitive areas such as 100-year floodplains, low-lying areas, etc
  - 4) Maximum preservation of natural area supplemented by the above
- D. The remaining open space of developed property shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners or property owners 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 homeowners or property owners association is not incorporated, a declaration of covenants including a maintenance agreement in a form sufficient to the Town shall be filed in the Granville County Registry prior to the conveyance of any lots in the development. All subdivision plats, site plans, and other documents shall detail the exact location and boundaries of the open space and non-disturbed area.
  - E. Vegetative buffers of 100 feet will be required on perennial waters.

## **Article 16. Density and Built-upon Guidelines**

### **16.01 Density**

Within the Stem watershed area, there will be single family residential development projects designed to meet the lot size/density/built-upon area requirements for the watershed area (See Article 13). In order to meet lot size requirements only, the minimum square footage required to meet these requirements shall not include any road right-of-way areas, access easements, travel ways, or other similar areas. In order to meet density (i.e. dwelling unit per acre) or built-upon area requirements, built-upon area calculations shall include the entirety of any roadway right-of-way areas, impervious access easements, travel ways, and other similar areas.

### **16.02 Built-upon Areas**

Within the Stem watershed area, there will be multi-family, cluster residential and non-residential development projects designed to meet the built-upon area requirements for the respective watershed areas (See Article 13). In order to meet these built-upon area requirements, the built-upon areas shall include the entirety of any road right-of-way areas, access easements, travel ways, and other similar areas.

### **16.03 Built-upon Area Design Requirements**

- A. All proposed site plans/plats for development projects proposed under the built-upon provisions of this Ordinance shall be drawn and designed by a registered land surveyor, a certified landscape architect, or an engineer.
- B. All site plans/plats shall be submitted on a recent boundary survey of the entire tract, unless otherwise approved by the Watershed Administrator, showing the bearings, distances, closures, and total acreage of the tract.
- C. All site plans/plats shall be prepared in accordance with the recordation requirements of the Granville County Register of Deeds office and shall be recorded following final approval.
- D. All site plans/plats shall follow the format listed in Section 9.02A.
- E. All site plans/plats and supporting documentation shall also note, in percentage and acreage for the particular project, the maximum allowable built-upon area in the watershed area, the actual proposed built-upon area, and the reserved, open space, non-disturbed area. Supporting documentation shall also include plans to minimize stormwater runoff impact to the receiving waters and minimize storm water flow. These plans should be included in the application and will be considered as part of the final approval, as amended.

Designs to limit runoff impact should include:

- 1) The creation of grass swales (berms) between built-upon areas and receiving areas
- 2) The placement of vegetative buffers, rock-check dams, and other controls between the built upon areas and storm water receiving areas
- 3) The directing of land disturbing activities and development away from environmentally

sensitive areas such as 100-year floodplains, low-lying areas, etc.

4) Maximum preservation of natural area supplemented by the above

F. All final approved site plans/plats shall include the above information and also include the following note:

**DEVELOPMENT RESTRICTIONS**

WARNING: The development project as detailed on this site plan/plat was designed to meet the built-upon and open space requirements of the Watershed Protection Ordinance of the Town of Stem. Any further subdivision, development, construction, use, or increase in built-upon area of the property detailed hereon shall not be allowed unless approved by the Town of Stem under the provisions of that same Ordinance. This site plan is approved for recording in the Granville County Register of Deeds Office.

Date	Watershed Administrator or Mayor, Town of Stem Watershed Review Board Stem, North Carolina

G. Following final approval, all development projects approved under the provisions of this Ordinance shall be constructed according to the approved site plan/plat. Any change, modification, addition, new use, or increase in built-upon area shall not be allowed unless a revised site plan/plat is presented and approved under the provisions of this Ordinance.

## **Article 17. Watershed Review Board**

### **17.01 Watershed Review Board**

There shall be a Watershed Review Board of the Town of Stem. The Stem Watershed Review Board shall consist of the five (5) elected members of the Town Board of Commissioners and the Mayor of Stem. Members of the Watershed Review Board shall be elected and shall serve terms in the same manner as outlined for the Commissioners and Mayor. The initial members of the Watershed Review Board shall be the current members of the Town Board at the time of the adoption of this Ordinance and the terms of office and service shall coincide with the existing terms of the Town Board and Mayor.

### **17.02 Rules of Conduct for Members**

Members of the Board shall abide by the following rules:

- A. Faithful attendance at meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite to continuing membership on the Board.
- B. No Board member shall take part in the hearing, consideration, or determination of any case in which he is personally or financially interested. A Board member shall have a “financial interest” in a case when a decision in the case will: 1) cause him or any immediate family member to experience a direct financial benefit or loss, or 2) will cause a business in which he or any immediate family member owns a ten percent (10%) or greater interest, or is involved in a decision-making role, to experience a direct financial benefit or loss. A Board member shall have a “personal interest” in a case when it involves a member of his immediate family (i.e. parent, spouse, partner or child).
- C. No Board member shall discuss any case with any parties thereto prior to the public hearing of that case; provide, however, that members may receive and/or seek information pertaining to the case from the Watershed Administrator or any other member of the Board, its secretary or clerk prior to the hearing.
- D. Members of the Board shall not express individual opinions on the proper judgment of any case prior to its public hearing and discussion on that case.
- E. Members of the Board shall give notice to the chairman at least forty-eight (48) hours prior to the hearing of any potential conflict of interest which he has in a particular case before the Board.

### **17.03 Powers and Duties of the Watershed Review Board**

- A. Administrative Review. The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this Ordinance.
- B. Variances. The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship. The spirit of this Ordinance shall be



observed, public safety and welfare secured, and substantial justice done. In addition, Stem shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed and the entity using the water supply where the variance is being considered.

- 1) Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:
  - a) A site plan, drawn to a scale of at least one (1) inch to one hundred (100) feet, indicating the property lines of a parcel upon which the variance is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of the person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
  - b) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.
  - c) The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.
- 2) Before the Watershed Review Board may grant a variance it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:
  - a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:
    - i. If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of his property. Merely providing that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.
    - ii. The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.
    - iii. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
    - iv. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates this Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.

- v. The hardship is peculiar to the applicant's property rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others and would not promote equal justice.
  - b) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
  - c) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.
- 3) In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed development, building, structure, or use as it may deem advisable in furtherance of the purpose of this Ordinance. If a variance for construction, alteration, or use of property is granted, such construction, alteration, or use shall be in accordance with the approved site plan.
  - 4) The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
  - 5) If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of hearing shall include:
    - a) The variance application;
    - b) The hearing notices;
    - c) The evidence presented;
    - d) Motions, offers of proof, objections to the evidence, and rulings on them;
    - e) Proposed findings and exceptions;
    - f) The proposed decision, including all conditions proposed to be added to the permit.

The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

- a) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

- b) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.
- C. The Watershed Review Board shall approve, disapprove, or conditionally approve subdivision plats which the Watershed Administrator presents for its review and final action (See Article 9).
- D. The Watershed Review Board may also grant approval for any proposed development involving built-upon areas and the associated guidelines which the Watershed Administrator presents for its review and final action. The Board shall grant approval for all proposed projects under the BONUS DEVELOPMENT provisions of this Ordinance (See Article 15).
- E. The Watershed Review Board shall also be responsible for any other duties delegated to it by this Ordinance.

#### **17.04 Appeals from the Watershed Review Board**

Appeals from the Watershed Review Board must be filed with the Superior Court within thirty (30) days from the date that a written decision is filed with the clerk and transmitted to the applicant. The decisions by the Superior Court will be in the nature of certiorari.

## **Article 18. Watershed Administration, Enforcement, and Appeals**

### **18.01 Watershed Administrator and Duties Thereof**

There shall be appointed a Town of Stem Watershed Administrator who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this Ordinance as follows:

- A. The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. Watershed Protection Permits shall be valid for a period of six months from the date of issuance. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.
- B. The Watershed Administrator shall keep records of all amendments to the Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Division of Water Quality.
- C. The Watershed Administrator shall keep records of the jurisdiction's utilization of the provision that a maximum of ten percent (10%) of the WS-II-BW watershed may be developed to a maximum of seventy percent (70%) built-upon surface area. Records for the watershed shall include the total acres of the general watershed area, total acres eligible to be developed under this option, total acres approved for this development option, the balance of the remaining acreage available, and individual records for each project with the following information: location, acres, site plan, use, stormwater management plan as applicable, and inventory of hazardous materials as applicable.
- D. The Watershed Administrator is granted the authority to administer and enforce the provisions of this Ordinance, exercising in the fulfillment of his responsibility the full police power of the Town of Stem. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Ordinance.
- E. The Watershed Administrator shall keep a record of variance to the local Water Supply Watershed Protection Ordinance. This record shall be submitted each calendar year to the Division of Water Quality on or before January 1<sup>st</sup> of the following calendar year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

### **18.02 Remedies**

- A. If the Watershed Administrator finds that any of the provisions of this Ordinance are being violated, they shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action(s) necessary to correct it. They 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 this Ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned the aggrieved party or parties may appeal such ruling to the

Watershed Review Board.

- B. If any subdivision, development and/or land use is found to be in violation of this Ordinance, the Stem Board of Commissioners may in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$100.00, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with N.C.G.S. 143-215.6 (a). Each day that the violation continues shall constitute a separate offense.

### **18.03 Appeal from the Watershed Administrator**

- A. Any order, requirement, decision, or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board. The Watershed Administrator may also refer any item to the Watershed Review Board for its review, oversight, and/or recommendation.
- B. An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty (30) days from the date the order interpretation, decision, or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- C. An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a Court or record on application of notice of the officer from whom the appeal is taken and upon due cause shown.
- D. The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent, or by attorney.

## **Article 19. Amendments to the Watershed Protection Ordinance and Watershed Map**

### **19.01 Guidelines**

The Stem Board of Commissioners may, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.

- A. Requests for text or map changes may be submitted by an interested party. The Stem Board of Commissioners may also submit petitions and shall be exempted from any related fees.
- B. Petitions to amend the Ordinance or Map shall be presented to the Watershed Administrator for review and recommendation at least fifteen (15) working days prior to being considered by the Board of Commissioners. Each petition shall fully explain the text or map amendment and appropriate documentation should be submitted detailing the request.
- C. Once the Board of Commissioners receives an application, it shall have sixty (60) days to consider the petition and ninety (90) days to reach a final decision. Failure to meet either of these deadlines shall be deemed as denial of the request.
- D. Under no circumstances shall the Board adopt such amendments, supplements, or changes that would cause this Ordinance to violate the watershed protection rules as adopted by the North Carolina Environmental Management Commission. All amendments must be filed with the North Carolina Division of Water Quality, North Carolina Division of Environmental Health, and the North Carolina Division of Community Assistance.

### **19.02 Public Notice and Hearing Required**

- A. Before adopting or amending this Ordinance, the Board of Commissioners shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the County. The notice shall state the nature of the request and shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date of the hearing.
- B. Before amending the Watershed Map, the Board of Commissioners shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the County. The notice shall state the nature of the request and shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date of the hearing.
- C. Prior to the public hearing on a map change, the Secretary or Watershed Administrator shall be responsible for notifying the owner of the parcel of land for which the request is made and all owners of parcels of land abutting that parcel as shown on the County tax records. Notification shall be by first-class mail to the last available addresses on the County tax records and shall reasonably describe the requested change.
- D. Any text or map change which is denied by the Board of Commissioners shall require a twelve (12) month waiting period before a new petition requesting the same change may be submitted.

## **Article 20. Watershed Rules for New Development (Compliance with North Carolina Falls Lake Rules)**

### **20.01 Purpose**

The purpose of this ordinance is to protect, maintain, and enhance the public safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of nitrogen and phosphorus in stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment in the watershed of the Falls of the Neuse Reservoir. It has been determined that proper management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources. This ordinance seeks to meet its general purpose through the following specific objectives and means:

- A. Establishing decision-making processes for development that protects the integrity of watersheds and preserve the health of water resources;
- B. Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;
- C. Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
- D. Establishing design and review criteria for the construction, function, and use of structural stormwater control measures (SCMs) that may be used to meet the minimum post-development stormwater management standards;
- E. Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;
- F. Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural SCMs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;
- G. Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance.

### **20.02 Applicability and Jurisdiction**

#### A. General

Beginning with and subsequent to its effective date, this ordinance shall be applicable to all development and redevelopment, including, but not limited to, site plan applications, subdivision

applications, and grading applications, unless exempt pursuant to this ordinance.

- 1) Exemptions: Single family and duplex residential and recreational development and redevelopment that cumulatively disturbs less than one half (1/2) acre and is not part of a larger common plan of development or sale is exempt from the provisions of this ordinance.
- 2) Commercial, industrial, institutional, multifamily residential or local government development and redevelopment that cumulatively disturbs less than 12,000 square feet and is not part of a larger common plan of development or sale is exempt from the provisions of this ordinance.
- 3) Development and redevelopment that disturbs less than the above thresholds are not exempt if such activities are part of a larger common plan of development or sale and the larger common plan exceeds the relevant threshold, even though multiple, separate or distinct activities take place at different times on different schedules.
- 4) Development that is exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this ordinance.

#### B. No Development or Redevelopment Until Compliance and Permit

No development or redevelopment shall occur except in compliance with the provisions of this ordinance or unless exempted. No development or redevelopment for which a permit is required pursuant to this ordinance shall occur except in compliance with the provisions, conditions, and limitations of the permit.

#### C. Map

- 1) The provisions of this ordinance shall apply within the areas designated on the map titled "Falls Watershed Stormwater Map" ("the Stormwater Map"), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this ordinance.
- 2) The Stormwater Map shall be kept on file by the Watershed Administrator and shall be updated to take into account changes in the land area covered by this ordinance and the geographic location of all engineered stormwater controls permitted under this ordinance. In the event of a dispute, the applicability of this ordinance to a particular area of land or SCM shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

### **20.03 Interpretation**

#### A. Meaning and Intent

All provisions, terms, phrases, and expressions contained in this ordinance shall be construed according to the general and specific purposes set forth in Section 20.01, "Purpose." If a different or more specific meaning is given for a term defined elsewhere in the Stem Code of Ordinances, the meaning and application of the term in this ordinance shall control for purposes of application



of this ordinance.

#### B. Text Controls in Event of Conflict

In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

#### C. Authority for Interpretation

The Watershed Administrator has authority to determine the interpretation of this ordinance. Any person may request an interpretation by submitting a written request to the Watershed Administrator, who shall respond in writing within thirty (30) days from receipt of the request. The Watershed Administrator shall keep on file a record of all written interpretations of this ordinance.

#### D. References to Statutes, Regulations, and Documents

Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the Design Manual), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

#### E. Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town of Stem, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the Town of Stem. References to days are calendar days unless otherwise stated.

#### F. Delegation of Authority

Any act authorized by this Ordinance to be carried out by the Watershed Administrator of the Town of Stem may be carried out by his or her designee.

#### G. Usage

- 1) **Mandatory and Discretionary Terms.** The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.
- 2) **Conjunctions.** Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions and events apply. The word "or" indicates that one or more of the connected items, conditions, provisions or events apply.
- 3) **Tense, Plurals, and Gender.** Words used in the present tense include the future tense. Words used in the singular number include the plural number, and the plural number

includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

#### F. Measurement and Computation

"Lot area" refers to the amount of horizontal land area contained inside the lot lines of a lot or site.

### **20.04 Design Manual**

#### A. Reference to Design Manual

- 1) The Watershed Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the NC DEQ Stormwater Design Manual as the basis for decisions about stormwater permits and about the design, implementation and performance of engineered stormwater controls and other practices for compliance with this ordinance.
- 2) The Design Manual includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Falls Rules.

#### B. Relationship of Design Manual to Other Laws and Regulations

If the specifications or guidelines of the Design Manual are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Design Manual.

#### C. Changes to Standards and Specifications

If the standards, specifications, guidelines, policies, criteria, or other information in the Design Manual are amended subsequent to the submittal of an application for approval pursuant to this ordinance but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this ordinance with regard to the application.

### **20.05 Relationship to other Laws, Regulations, and Private Agreements**

#### A. Conflict of Laws

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or

other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

#### B. Private Agreements

This ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this ordinance shall govern. Nothing in this ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this ordinance. In no case shall the Town of Stem be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

### **20.06 Severability**

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

### **20.07 Effective Date and Transitional Provisions**

#### A. Effective Date

The Town of Stem Watershed Ordinance for New Development took effect on July 1, 2012.

#### B. Final Approvals, Complete Applications

- 1) All development and redevelopment projects for which complete and full applications were submitted and approved by the Town of Stem prior to the effective date of this ordinance and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of development shall be exempt from complying with all provisions of this ordinance dealing with the control and/or management of stormwater.
- 2) A phased development plan shall be deemed approved prior to the effective date of this ordinance if it has been approved by all necessary government units, it remains valid, unexpired, unrevoked and not otherwise terminated, and it shows:
  - a) For the initial or first phase of development or redevelopment, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved; and
  - b) For any subsequent phase of development or redevelopment, sufficient detail so that implementation of the requirements of this ordinance to that phase of development would require a material change in that phase of the plan.

#### D. Violations Continue

Any violation of provisions existing on the effective date of this ordinance shall continue to be a violation under this ordinance and be subject to penalties and enforcement under this ordinance unless the use, development, construction, or other activity complies with the provisions of this ordinance.

**20.08 Administration and Procedures: Review and Decision-Making Entities**

A. Watershed Administrator

- 1) Designation. A Watershed Administrator shall be designated by the Board of Commissioners of the Town of Stem to administer and enforce this ordinance.
- 2) Powers and Duties. In addition to the powers and duties that may be conferred by other provisions of the Stem Code of Ordinances and other laws, the Watershed Administrator shall have the following powers and duties under this ordinance:
  - a) To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance;
  - b) To make determinations and render interpretations of this ordinance;
  - c) To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the Board of Commissioners of the Town of Stem on applications for development or redevelopment approvals;
  - d) To enforce the provisions of this ordinance in accordance with its enforcement provisions;
  - e) To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this ordinance;
  - f) To provide expertise and technical assistance to Board of Commissioners of the Town of Stem, upon request;
  - g) To designate appropriate other person(s) who shall carry out the powers and duties of the Watershed Administrator; and
  - h) To take any other action necessary to administer the provisions of this ordinance.

**20.09 Administration and Procedures: Review Procedures**

A. Permit Required; Must Apply for Permit

A stormwater permit is required for all development and redevelopment unless exempt pursuant to this ordinance. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

## B. Effect of Permit

A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including engineered stormwater controls and elements of site design for stormwater management other than engineered stormwater controls.

The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this ordinance, whether the approach consists of engineered stormwater controls or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this ordinance.

## C. Authority to File Applications

All applications required pursuant to this ordinance shall be submitted to the Watershed Administrator by the land owner or the land owner's duly authorized agent.

## D. Establishment of Application Requirements, Schedule, and Fees

- 1) Application Contents and Form. The Watershed Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater permit application shall describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this ordinance.
- 2) Submission Schedule. The Watershed Administrator shall establish a submission schedule for applications, which shall be reviewed and approved by the Board of Commissioners of the Town of Stem. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.
- 3) Permit Review Fees. The Board of Commissioners of the Town of Stem shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.
- 4) Administrative Manual. For applications required under this ordinance, the Watershed Administrator shall compile the application requirements, submission schedule, fee schedule, a copy of this ordinance, and information on how and where to obtain the Design Manual in an Administrative Manual, which shall be made available to the public.
- 5) Submittal of Complete Application.
  - a) Applications shall be submitted to the Watershed Administrator pursuant to the application submittal schedule in the form established by the Watershed

Administrator, along with the appropriate fee established pursuant to this section.

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

#### F. Review

- 1) Within thirty (30) working days after a complete application is submitted, the Watershed Administrator shall review the application and determine whether the application complies with the standards of this ordinance.
- 2) Approval. If the Watershed Administrator finds that the application complies with the standards of this ordinance, the Watershed Administrator shall approve the application. The Watershed Administrator may impose conditions of approval as needed to ensure compliance with this ordinance. The conditions shall be included as part of the approval.
- 3) Fails to Comply. If the Watershed Administrator finds that the application fails to comply with the standards of this ordinance, the Watershed Administrator shall notify the applicant and shall indicate the manner(s) in which the application fails to comply. The applicant shall have an opportunity to submit a revised application.
- 4) Revision and Subsequent Review.
  - a) A complete revised application shall be reviewed by the Watershed Administrator within thirty (30) working days after its re-submittal and shall be approved, approved with conditions or disapproved.
  - b) If a revised application is not re-submitted within thirty (30) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.
  - c) One re-submittal of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the first re-submittal shall be accompanied by a permit review fee additional fee, as established pursuant to this ordinance.

### **20.10 Administration and Procedures: Applications for Approval**

#### A. Concept Plan and Consultation Meeting

Before a stormwater management permit application is deemed complete, the Watershed Administrator may request a consultation on a concept plan for the post- construction stormwater management system to be utilized in the proposed development project. This

consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans, and other relevant resource protection plans should be consulted in the discussion of the concept plan.

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

1) Existing Conditions / Proposed Site Plans

Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); stream and other buffers and features used in designing buffers and meeting any applicable buffer requirements; boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

2) Natural Resources Inventory

A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development and stormwater management.

3) Stormwater Management System Concept Plan

A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed engineered stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

B. Stormwater Management Permit Application

- 1) The stormwater management permit application shall detail how post-development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this ordinance, including Article 3, "Standards." All such plans shall be prepared by a qualified registered North Carolina professional engineer,

surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the Design Manual, and that the designs and plans ensure compliance with this ordinance.

- 2) The submittal shall include all of the information required in the submittal checklist established by the Watershed Administrator. Incomplete submittals shall be returned by the Watershed Administrator for correction.

#### C. As-Built Plans and Final Approval

- 1) Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual "as built" plans for all stormwater management facilities or practices after final construction is completed.
- 2) The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this ordinance. A final inspection and approval by the Watershed Administrator shall occur before the release of any performance securities.

#### D. Other Permits

No certificate of compliance or occupancy shall be issued without final as-built plans and a final inspection and approval by the Watershed Administrator, except where multiple units are served by the stormwater practice or facilities, in which case the building inspector may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

### **20.11 Administration and Procedures: Approvals**

#### A. Effect of Approval

Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

#### B. Time Limit/Expiration

- 1) An approved plan shall become null and void if the applicant fails to make substantial progress on the site within one (1) year after the date of approval.



- 2) The Watershed Administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan. In granting an extension, the Watershed Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

## **20.12 Administration and Procedures: Appeals**

### **A. Right of Appeal**

Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this ordinance made by the Watershed Administrator, may file an appeal to the Board of Commissioners of the Town of Stem within thirty (30) days. Appeals of variance requests shall be made as provided in Section 23-308, "Variances." In the case of requests for review of proposed civil penalties for violations of this ordinance, Board of Commissioners of the Town of Stem shall make a final decision on the request for review within ninety (90) days of receipt of the date the request for review is filed.

### **B. Filing of Appeal and Procedures**

- 1) Appeals shall be taken within the specified time period by filing a notice of appeal and specifying the grounds for appeal on forms provided by the Town of Stem. The Watershed Administrator shall transmit to the Board of Commissioners of the Town of Stem all documents constituting the record on which the decision appealed from was taken.
- 2) The hearing conducted by the Board of Commissioners of the Town of Stem shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.

### **C. Review by Superior Court**

Every decision of the Board of Commissioners of the Town of Stem shall be subject to Superior Court review by proceedings in the nature of certiorari. A petition for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days after the latter of the following:

- 1) The decision of Board of Commissioners of the Town of Stem is filed; or
- 2) A written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the Clerk to the Board of Commissioners of the Town of Stem at the time of its hearing of the case.

**20.13 Standards: General**

All development and redevelopment to which this ordinance applies shall comply with the standards of this section. The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

**20.14 Standards: Nitrogen and Phosphorus Loading**

- A. Nitrogen and phosphorus loads contributed by the proposed new development shall not exceed the following unit-area mass loading rates: 2.2 and 0.33 pounds per acre per year for nitrogen and phosphorus, respectively.
- B. Notwithstanding 15A N.C.A.C. 2B .0104(q), redevelopment subject to this ordinance that would replace or expand existing structures or improvements and would result in a net increase in built-upon area shall have the option of either meeting the loading standards identified in subsection (A) or meeting a loading rate that achieves the following nutrient loads compared to the existing development: forty percent (40%) and seventy-seven percent (77%) reduction for nitrogen and phosphorus, respectively.
- C. The developer shall determine the need for engineered stormwater controls to meet these loading rate targets by using the approved accounting tool.

**20.15 Standards: Nitrogen and Phosphorus Standard is Supplemental**

The nitrogen and phosphorus loading standards in this ordinance are supplemental to, not replacements for, stormwater standards otherwise required by federal, state or local law, including without limitation any riparian buffer requirements applicable to the location of the development. This includes, without limitation, the riparian buffer protection requirements of 15A N.C.A.C. 2B. 0233 and .0242.

**20.16 Standards: Control and Treatment of Runoff Volume**

Stormwater systems shall be designed to control and treat the runoff generated from all surfaces by one (1) inch of rainfall. The treatment volume shall be drawn down pursuant to standards specific to each practice as provided in the Design Manual. To ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by erosive flows, stormwater flows from the development shall not contribute to degradation of waters of the State. At a minimum, the development shall not result in a net increase in peak flow leaving the site from pre-development conditions for the one-year, twenty-four-hour storm event.

**20.17 Standards: Partial Offset of Nutrient Control Requirements**

- A. Development subject to this ordinance shall attain nitrogen and phosphorus loading rate reductions on-site that meet the following criteria prior to using an offsite offset measure:
  - 1) Thirty percent (30%) or more reduction in both nitrogen and phosphorus loading from the untreated conditions for any single-family, detached and duplex residential development

disturbing one half (1/2) acre but less than one (1) acre.

- 2) Fifty percent (50%) or more reduction in both nitrogen and phosphorus loading from the untreated conditions for any single-family, detached and duplex residential development disturbing more than one (1) acre.
- 3) Thirty percent (30%) or more reduction in both nitrogen and phosphorus loading from the untreated condition for other development, including multi-family residential, commercial and industrial development disturbing 12,000 square feet but less than one (1) acre.
- 4) Fifty percent (50%) or more reduction in both nitrogen and phosphorus loading from the untreated condition for other development, including multi-family residential, commercial and industrial development disturbing more than one (1) acre.
- 5) Thirty percent (30%) or more reduction in both nitrogen and phosphorus loading from the untreated condition for proposed redevelopment activities in a designated downtown area that would replace or expand structures or improvements that existed as of December 2006.

B. A developer subject to this ordinance may achieve the additional reductions in nitrogen and phosphorus loading required by this ordinance by making offset payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that Program. A developer may use an offset option provided by the Town of Stem. A developer may propose other offset measures to the Town of Stem, including providing his or her own offsite offset or utilizing a private seller. All offset measures permitted by this ordinance shall meet the requirements of 15A N.C.A.C. 2B .0282 and 15A N.C.A.C.2B.0240.

## **20.18 Standards: Evaluation of Standards for Stormwater Control Measures**

### **A. Evaluation According to Contents of Design Manual**

All stormwater control measures, stormwater systems and stormwater treatment practices (also referred to as Best Management Practices, or "SCM's) required under this ordinance shall be evaluated by the Watershed Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the Design Manual. The Watershed Administrator shall determine whether proposed SCMs will be adequate to meet the requirements of this ordinance.

### **B. Determination of Adequacy; Presumptions and Alternatives**

Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the Design Manual and the approved accounting tool will be presumed to meet the minimum water quality and quantity performance standards of this ordinance. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this ordinance. The Watershed Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Watershed Administrator to determine whether such an affirmative showing is made.

## **20.19 Standards: Dedication of SCMs, Facilities & Improvements**

The Town of Stem may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

## **20.20 Standards: Variances**

- A. Any person may petition the Town of Stem for a variance granting permission to use the person's land in a manner otherwise prohibited by this ordinance. For all proposed major and minor variances from the requirements of this ordinance, the Board of Commissioners of the Town of Stem shall make findings of fact showing that:
  - 1) There are practical difficulties or unnecessary hardships that prevent compliance with the strict letter of the ordinance;
  - 2) The variance is in harmony with the general purpose and intent of the local watershed protection ordinance and preserves its spirit; and
  - 3) In granting the variance, the public safety and welfare have been assured and substantial justice has been done.
- B. In the case of a request for a minor variance, the Town of Stem may vary or modify any of the regulations or provisions of the ordinance so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done may impose reasonable and appropriate conditions and safeguards upon any variance it grants.
- C. The Town of Stem may attach conditions to the major or minor variance approval that support the purpose of the local watershed protection ordinance. If the variance request qualifies as a major variance, and the Town of Stem decides in favor of granting the major variance, the Board shall then prepare a preliminary record of the hearing and submit it to the Commission for review and approval. If the Commission approves the major variance or approves with conditions or stipulations added, then the Commission shall prepare a Commission decision which authorizes the Town of Stem to issue a final decision which would include any conditions or stipulations added by the Commission. If the Commission denies the major variance, then the Commission shall prepare a decision to be sent to the Town of Stem. The Town of Stem shall prepare a final decision denying the major variance.
- D. Appeals from the Tow of Stem's decision on a major or minor variance request are made on certiorari to the Granville County Superior Court. Appeals from the Commission decision on a major variance request are made on judicial review to Superior Court.
- E. On request of the Watershed Administrator, any person who petitions the Town of Stem for a variance under this ordinance shall provide notice to the affected local governments of the variance request as required under the Falls Rule, 15A N.C.A.C. 2B. 0104(r). For purposes of this notice requirement, "affected local governments" means any local governments that

withdraw water from Falls Lake or its tributaries downstream of the site of the proposed variance. If the proposed variance is in a Water Supply Watershed area classified as WS II, WS III or WS IV, "affected local governments" also includes any other local governments in the same water supply watershed as the proposed variance. The notice shall provide a reasonable period for comments and shall direct the comments to be sent to the Watershed Administrator. The person petitioning for the variance shall supply proof of notification in accordance with this ordinance to the Watershed Administrator.

## **20.21 Maintenance: General Standards**

### **A. Function of SCMs As Intended**

The owner of each engineered stormwater control installed pursuant to this ordinance shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the engineered stormwater control was designed.

### **B. Annual Maintenance Inspection and Report**

- 1) The person responsible for maintenance of any engineered stormwater control installed pursuant to this ordinance shall submit to the Watershed Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:
  - a) The name and address of the land owner;
  - b) The recorded book and page number of the lot of each engineered stormwater control;
  - c) A statement that an inspection was made of all engineered stormwater controls;
  - d) The date the inspection was made;
  - e) A statement that all inspected engineered stormwater controls are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and
  - f) The original signature and seal of the engineer, surveyor, or landscape architect.
- 2) All inspection reports shall be on forms supplied by the Watershed Administrator. An original inspection report shall be provided to the Watershed Administrator beginning one (1) year from the date of as-built certification and each year thereafter on or before the date of the as-built certification.

## **20.22 Maintenance: Operation and Maintenance Agreement**

### **A. In General**

- 1) Prior to the conveyance or transfer of any lot or building site to be served by a engineered stormwater control pursuant to this ordinance, and prior to issuance of any permit for development requiring a engineered stormwater control pursuant to this ordinance, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of them- site, and lots or parcels served by the engineered stormwater control. Until the transfer of all property, sites, or lots served by the engineered stormwater control, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.
- 2) The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the engineered stormwater control, and shall state the terms, conditions, and schedule of maintenance for the engineered stormwater control. In addition, it shall grant to the Town of Stem a right of entry in the event that the Watershed Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the engineered stormwater control; however, in no case shall the right of entry, of itself, confer an obligation on the Town of Stem to assume responsibility for the engineered stormwater control.
- 3) The operation and maintenance agreement must be approved by the Watershed Administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the Granville County Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Watershed Administrator within fourteen (14) days following its recordation.

### **B. Special Requirement for Homeowners' and Other Associations**

For all engineered stormwater controls required pursuant to this ordinance and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

- 1) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities;
- 2) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair. or reconstruction of the engineered stormwater controls. If engineered stormwater controls are not performing adequately or as intended or are not properly maintained, the Town of Stem, in its sole discretion, may remedy the situation, and in such instances the Town of Stem shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the engineered stormwater controls, provided that the Town

of Stem shall first consent to the expenditure;

- 3) Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to fifteen percent (15%) of the initial construction cost of the engineered stormwater controls. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the engineered stormwater controls. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget;
- 4) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town of Stem depending on the design and materials of the stormwater control and management facility;
- 5) Granting to the Town of Stem a right of entry to inspect, monitor, maintain, repair, and reconstruct engineered stormwater controls;
- 6) Allowing the Town of Stem to recover from the association and its members any and all costs the Town of Stem expends to maintain or repair the engineered stormwater controls or to correct any operational deficiencies. Failure to pay the Town of Stem all of its expended costs, after forty-five (45) days written notice, shall constitute a breach of the agreement. In case of a deficiency, the Town of Stem shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery;
- 7) A statement that this agreement shall not obligate the Town of Stem to maintain or repair any engineered stormwater controls, and the Town of Stem shall not be liable to any person for the condition or operation of engineered stormwater controls;
- 8) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town of Stem to enforce any of its ordinances as authorized by law; and
- 9) A provision indemnifying and holding harmless the Town of Stem for any costs and injuries arising from or related to the engineered stormwater control, unless the Town of Stem has agreed in writing to assume the maintenance responsibility for the SCM and has accepted dedication of any and all rights necessary to carry out that maintenance.

### **20.23 Maintenance: Inspection Program**

Inspections and inspection programs by the Town of Stem may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater. and material or water in SCMs; and evaluating the condition of SCMs.

If the owner or occupant of any property refuses to permit such inspection, the Watershed Administrator shall proceed to obtain an administrative search warrant pursuant to N.C.G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Watershed Administrator while carrying out his or her official duties.

## **20.24 Maintenance: Performance Security for Installation and Maintenance**

### **A. May Be Required**

The Town of Stem may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the engineered stormwater controls are

- 1) installed by the permit holder as required by the approved stormwater management plan, and/or
- 2) maintained by the owner as required by the operation and maintenance agreement.

### **B. Amount**

- 1) Installation. The amount of an installation performance security shall be the total estimated construction cost of the SCMs approved under the permit, plus twenty-five percent (25%).
- 2) Maintenance. The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the SCMs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long-term inflation.

### **C. Uses of Performance Security**

- 1) Forfeiture Provisions. The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this ordinance, approvals issued pursuant to this ordinance, or an operation and maintenance agreement established pursuant to this ordinance.
- 2) Default. Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any engineered stormwater control in accordance with the applicable permit or operation and maintenance agreement, the Watershed Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the Town of Stem shall not return



any of the unused deposited cash funds or other security, which shall be retained for maintenance.

- 3) Costs in Excess of Performance Security. If the Town of Stem takes action upon such failure by the applicant or owner, the Town of Stem may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.
- 4) Refund. Within sixty (60) days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus 25%) of landscaping installation and ongoing maintenance associated with the SCMs covered by the security. Any such landscaping shall be inspected one (1) year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

## **20.25 Maintenance: Notice to Owners**

### **A. Deed Recordation and Indications On Plat**

The applicable operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable, pertaining to every engineered stormwater control shall be referenced on the final plat and shall be recorded with the Granville County Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable, shall be recorded with the Granville County Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

### **B. Signage**

Where appropriate in the determination of the Watershed Administrator to assure compliance with this ordinance, engineered stormwater controls shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

## **20.26 Maintenance: Records of Installation and Maintenance Activities**

The owner of each engineered stormwater control shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Watershed Administrator.

## **20.27 Maintenance: Nuisance**

The owner of each SCM, whether engineered stormwater control or non- engineered stormwater control, shall maintain it so as not to create or result in a nuisance condition.

## **20.28 Enforcement & Violations: General**

### **A. Authority to Enforce**

The provisions of this ordinance shall be enforced by the Watershed Administrator, his or her designee, or any authorized agent of the Town of Stem. Whenever this section refers to the Watershed Administrator, it includes his or her designee as well as any authorized agent of the Town of Stem.

### **B. Violation Unlawful**

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other development approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance.

### **C. Each Day a Separate Offense**

Each day that a violation continues shall constitute a separate and distinct violation or offense.

### **D. Responsible Persons/Entities**

Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, SCM, engineered stormwater control, practice, or condition in violation of this ordinance shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs.

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

- 1) **Person Maintaining Condition Resulting In or Constituting Violation.** An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists; and
- 2) **Responsibility For Land or Use of Land.** The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use or development of the property.

## **20.29 Enforcement & Violations: Remedies and Penalties**

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

### **A. Remedies**

- 1) **Withholding of Certificate of Occupancy.** The Watershed Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- 2) **Disapproval of Subsequent Permits and Development Approvals.** As long as a violation of this ordinance continues and remains uncorrected, the Watershed Administrator or other authorized agent may withhold, and the Board of Commissioners of the Town of Stem may disapprove, any request for permit or development approval or authorization provided for by this ordinance or any other zoning, building, or development permit required by the Town of Stem for the land on which the violation occurs.
- 3) **Injunction, Abatements, etc.** The Watershed Administrator, with the written authorization of the Board of Commissioners of the Town of Stem may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this ordinance. Any person violating this ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.
- 4) **Correction as Public Health Nuisance, Costs as Lien, etc.** If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. § 160A-193, the Watershed Administrator, with the written authorization of the Board of Commissioners of the Town of Stem, may cause the violation to be corrected and the costs to be assessed as a lien against the property.
- 5) **Stop Work Order.** The Watershed Administrator may issue a stop work order to the person(s) violating this ordinance. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

### **B. Civil Penalties**

The Watershed Administrator may assess a civil penalty against any person who violates any provision of this ordinance or of a permit or other requirement pursuant to this ordinance. Civil penalties may be assessed up to the full amount of penalty authorized by N.C.G.S. 143-215.6A.

## **20.30 Enforcement & Violations: Procedures**

### **A. Initiation/Complaint**

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Watershed Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Watershed Administrator.

### **B. Inspection**

The Watershed Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.

### **C. Notice of Violation and Order to Correct**

- 1) When the Watershed Administrator finds that any building, structure, or land is in violation of this ordinance, the Watershed Administrator shall notify, in writing, the property owner or other person violating this ordinance. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.
- 2) The Watershed Administrator may deliver the notice of violation and correction order by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.
- 3) If a violation is not corrected within a reasonable period of time, as provided in the notification, the Watershed Administrator may take appropriate action under this ordinance to correct and abate the violation and to ensure compliance with this ordinance.

### **D. Extension of Time**

A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Watershed Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Watershed Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding thirty (30) days. The Watershed Administrator may grant thirty-day extensions in addition to the foregoing extension if the violation cannot be corrected within the

permitted time due to circumstances beyond the control of the person violating this ordinance. The Watershed Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

#### E. Enforcement After Time to Correct

After the time has expired to correct a violation, including any extension(s) if authorized by the Watershed Administrator, the Watershed Administrator shall determine if the violation is corrected. The Watershed Administrator may act to impose one or more of the remedies and penalties authorized by this ordinance whether or not the violation has been corrected.

#### F. Emergency Enforcement

If delay in correcting a violation would seriously threaten the effective enforcement of this ordinance or pose an immediate danger to the public health, safety, or welfare, then the Watershed Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Watershed Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

## Article 21. Definitions

### 21.01 Rules of Construction

#### A. Meanings and Intent:

Words defined in this Article shall have the specific meaning assigned in this ordinance, unless the context expressly indicates another meaning. Words that are not defined shall have their customary meaning.

#### B. Tenses and Usage:

- 1) Words used in the singular include the plural and vice versa.
- 2) Words used in the present tense include the future tense and the reverse is true.
- 3) The words “must”, “will” and “shall” are mandatory.
- 4) The word "may" is permissive, except when the context of the use is negative, and then it is mandatory.

#### C. Miscellaneous Terminology Rules

- 1) The word "person" includes a firm, association, organization, partnership, corporation, trust, and company as well as an individual.
- 2) The word "lot" includes the word "plot" or "parcel" or “tract”.
- 3) The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".
- 4) The term "Board of Commissioners" or “Town Board” shall mean the governing board of the Town of Stem, North Carolina".
- 5) The term "Planning Board" shall mean the "Planning Board of Stem, North Carolina" established pursuant to GS 160D-301
- 6) The term "Board of Adjustment" shall mean the "Board of Adjustment of Stem, North Carolina" established pursuant to GS 160D-302.
- 7) The term "street" shall mean any "road, roadway, alley, avenue, thoroughfare, boulevard, highway or interstate”.
- 8) If a conflict between the text of these regulations and any caption, figure, illustration, or table exists, the text of these regulations shall control.

#### D. Citations and References:

References to town, state, or federal law or rule shall refer to the current version unless expressly indicated otherwise. When a referenced law or rule has been repealed and not replaced by other regulations, this ordinance requirement for compliance is no longer in effect.

E. Interpreting Deadlines:

Deadlines stated in days shall mean calendar days. Deadlines stated in working days exclude weekends, holidays, or other non working days observed by the town. Deadlines that fall on a non working day shall extend to the next working day. The time required for action shall be computed by excluding the first day but including the last day.

## 21.02 General Definitions

**Abandonment:** The discontinuance of a nonconformity voluntarily with an intent to abandon, or the commission of an overt act of substantial discontinuance.

**Abut or abutting:** Two lots having property lines in common.

**Accessory:** Any structure or use which is:

- a) Subordinate in size or purpose to the principal structure or use which it serves;
- b) Necessary or contributing to the comfort and convenience of the occupants (whether individuals or businesses) of the principal structure or use served; and
- c) Located on the same lot as the principal structure or use served.

**Accessory Building.** A detached subordinate structure located on the same property as a principal structure and is incidental to that principal structure.

**Accessory Use.** A use of property located on that same property as a principal use and is incidental to that principal use.

**Adjacent:** Two lots that abut, or where they are separated by a roadway or street, right-of-way, or railroad line, or any stream, river, canal, lake, or other body of water.

**Agricultural Use.** The use of waters for stock watering, irrigation, and other farm purposes.

**Animal Unit.** A unit of measurement developed by the U. S. Environmental Protection Agency that is used to compare different types of animal operations.

**All weather surface:** A pavement for driveways and parking spaces that is dust free and not adversely affected by inclement weather.

**Allowed Uses.** Uses which are allowed to be located on property based on adherence to the requirements of this Ordinance and on the issuance of a Watershed Protection Permit by the Watershed Administrator. (A Watershed Protection Permit from the Watershed Administrator is not required for agricultural, silviculture, and transportation purposes, unless otherwise noted.)

**Applicant:** Any person authorized to file an application for a development order or approval in accordance with this ordinance.

**Application:** Any application for a development order or a development approval.

**Approved accounting tool.** The accounting tool for nutrient loading approved by the EMC for the relevant geography and development type under review.

**Best Management Practices (BMP).** See Stormwater Control Measure

**Board of Commissioners.** The governing body of Stem, the Stem Board of Commissioners.

**Buffer.** An area of natural or planted vegetation through which storm water 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.

**Buffer strip:** The required installation of landscaping and screening materials between zoning districts and certain uses.

**Building:** Any structure, either temporary or permanent, having a roof or covering supported by columns, posts, or by walls and intended for shelter, housing, or enclosure of persons, animals, or property. The connection of two buildings by means of a porch, breezeway, passageway, carport, or other such structure, with or without a roof, shall not be deemed to make them one building.

**Building height:** The vertical distance from the established grade of the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line for a mansard roof, or to the mean height level between the eaves and ridge for hip, gabled and gambrel roofs.

**Built-upon Area.** Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, structures, pavement concrete, gravel roads, vehicle parking areas and travel ways, compacted soils, sidewalks, recreational facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of swimming pools and water bodies are considered pervious.)

**Certificate of compliance:** A certificate indicating that the premises comply with all the provisions of this Ordinance and conditions of a quasi-judicial approval. (Note: The certificate of compliance is issued after approval of a zoning permit and construction has occurred pursuant to the zoning permit.)

**Comprehensive plan:** The comprehensive development plan, land-use plan, transportation plan, any small area plans, neighborhood plans, capital improvement plan, official map, and any plan regarding land use and development officially adopted by the board of commissioners.

**Cluster Development.** The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing storm water runoff impacts. This term includes nonresidential development as well as single-family residential and multifamily developments. For the purpose of this ordinance, planned unit developments and mixed use developments are considered as cluster development.

**Conservancy Lot:** A large, privately-owned lot comprising part of an area of open land. The purpose of the conservancy lot is to provide surrounding residents with visual access to greenway land, while keeping the land under private ownership and maintenance. Only a small portion of such lots may be developed; the remainder must be protected through conservation easements and used in conformance with standard for greenway land. Public access to conservancy lots is not required.

**Customary Home Occupations.** Any use conducted within a dwelling or an accessory building and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof.

**Design Manual.** The stormwater design manual approved for use in this part of the Falls Watershed by the North Carolina Department of Environmental Quality for the proper implementation of the requirements of the Falls Watershed stormwater program. All references herein to the Design Manual are to the latest published edition or revision.



**Development:** The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more lots. Includes any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

**Developer:** A person or entity who intends to undertake any development and who has a legal or equitable interest in the property to be developed.

**Development permit:** Any authorized action by an officer or body of the Town of Stem that approves, conditions, or denies a development or use of a lot, building, or structure, including any of the following: zoning map amendment; conditional permit; zoning permit, certificate of occupancy/compliance; subdivision plat; watershed permit; variance; appeal; and site specific development plan.

**Development regulations:** All ordinances including zoning, subdivision, official mapping, capital improvements programming, building, housing, safety, and environmental codes (i.e. watershed protection) that relate to land use.

**Discharging Landfill.** A facility with liners, monitoring equipment, and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

**Dwelling:** A building containing sleeping, kitchen, and bathroom facilities designed for and occupied as a permanent residence by 1 family.

- a) **Dwelling, single-family:** A dwelling that is unattached to any other dwelling and surrounded by open space or yards.
- b) **Dwelling, two-family (duplex):** A detached building designed exclusively for the residence of two families, each living as an independent housekeeping unit.
- c) **Dwelling, multifamily:** A dwelling or group of dwellings on one lot containing separate living units for 3 or more families, but which may have joint services or facilities. Includes the term "apartments".

**Dwelling Unit.** A building, or portion thereof, providing complete and permanent living facilities for one family.

**Engineered stormwater control.** A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Engineered stormwater control includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Engineered stormwater control" is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this ordinance. It is a broad term that may include practices that do not require design by a professionally licensed engineer.

**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 Ordinance 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 General Statutes (N.C.G.S. 153A-344.1 and G.S. 160A-385.1), or
- c) having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by the General Statutes (N.C.G.S. 153A- 344.1 and N.C.G.S. 160A-385.1)

**Existing Lot (Lot of Record).** A lot which was part of a subdivision of land for which a plat has been legally recorded in the Office of the Register of Deeds prior to the adoption of this Ordinance, or a lot for which a deed describing a piece of property by metes and bounds was legally recorded based on the Town of Stem’s Ordinances prior to the adoption of this Ordinance.

**Family:** One or more persons related by blood, marriage, or adoption or 6 or less unrelated persons living together as a separate housekeeping unit.

**Family care home:** A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for 6 or fewer resident persons with disabilities.

**Family subdivision:** A division of a tract of land: (i) to convey the resulting parcels, except parcels retained by the grantor, to relatives as a gift or for nominal consideration, but only if no more than one parcel is conveyed by the grantor from the tract to any one relative; or (ii) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.

**Frontage:** That distance where a property line is common with a street right-of-way line.

**Greenway Land:** That portion of a tract that is set aside for the protection of sensitive natural features, farmland, scenic views, and other unique features. Greenway land may be accessible to the residents of the development and/or the municipality, or it may contain areas of conservancy lots which are not accessible to the public.

**Gross floor area (GFA):** The total area of all floors of a building as measured to the outside surfaces of exterior walls and including halls, stairways, attached garages, porches, balconies, basements, and offices.

**Group home:** A facility where 7 or more unrelated persons reside because of age, physical or mental disability, or developmental disability.

**Hazardous Material.** Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

**Home occupations:** Any activity carried out for gain by a resident, and conducted as an accessory use in the resident’s dwelling unit.

**Impervious Surface:** Any material that prevents or decreases infiltration of water into the soil, including rooftops, paved roads, sidewalks, driveways, etc. The same as Built-upon Area for the purposes of this Ordinance.

**Industrial Development.** Any non-residential development that requires a state permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning, or developing any product or commodity.

**Intersection:** The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of two or more roadways, including a public or private street, a private driveway, or an alley that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different roadways joining at any other angle may come into conflict.

**Kennel:** A commercial operation involving the boarding, breeding, or grooming of more than four (4) adult dogs, cats, or other domestic animals, excluding pet grooming shops, veterinary clinics and veterinary hospitals.

**Land disturbing activity.** Any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation.

**Landfill:** A facility for the disposal of solid waste on land in a sanitary manner in accordance with N.C.G.S. 130A-. For the purpose of this ordinance, this term excludes composting facilities.

**Larger common plan of development or sale.** Any area where multiple separate and distinct construction or land- disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

**Lot:** A lot of record occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

**Lot, corner:** A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

**Lot depth:** The average horizontal distance between the front and rear lot lines.

**Lot line:** Any boundary line of a lot.

**Lot of Record:** A lot recorded in the register of deeds as part of a subdivision or by metes and bounds description.

**Lot size:** The horizontal land area within lot lines.

**Lot width:** The width of a lot at the front setback line.

**Ordinance:** Any legislative action, however denominated, of the Town that has the force of law, including any amendment or repeal of an ordinance.

**Outdoor storage:** The keeping, in an unroofed area, of any goods, material, or merchandise in the same place for more than 24 hours.

**Pavement:** An artificial covering on a street, road, parking lot, driveway, walkway, patio, or other natural surface of the ground composed of concrete, asphalt, brick, or stone; or other manufactured products having the characteristics of concrete, asphalt, brick, or stone.

**Person:** Any natural person, corporation, partnership, joint venture, association (including homeowners' or neighborhood associations), trust, or any other entity recognized by law.

**Planned development:** A development under single ownership planned and developed as an integral unit, including shopping centers, subdivisions, manufactured home parks, or mixed-use developments.

**Public hearing:** A proceeding preceded by published notice and direct notice to certain persons and at which certain persons may testify and introduce evidence. In a quasi-judicial hearing, witnesses are sworn and subject to cross-examination.

**Public right-of-way:** A strip of land acquired by reservation, dedication, prescription, or condemnation, and used as a public street, alley, or walkway, or for drainage or public utility lines.

**Residential use:** All lots devoted primarily to a residential use, including:

- a) Single-family dwellings
- b) Manufactured homes
- c) Duplexes
- d) Multi-family dwellings
- e) Townhomes

**Manufactured home:** A dwelling unit constructed to the standards of the Department of Housing and Urban Development (HUD Code) and composed of 1 or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and exceeds 40 feet in length and 8 feet in width. Manufactured homes must bear a seal certifying compliance with the HUD Code in effect at the time of construction.

**Mobile Home:** A dwelling unit assembled in a manufacturing plant, but fails to comply with the construction standards of the HUD Code.

**Nonconforming Lot of Record.** A lot described by a plat or a deed that was recorded prior to the effective date of local watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.

**Non-residential Development.** All development other than residential development, agriculture, and silviculture.

**1-year, 24-hour storm.** The surface runoff resulting from a twenty-four hour rainfall of an intensity expected to be equaled or exceeded, on average, once in twelve (12) months and with a duration of twenty-four (24) hours.

**Outfall.** A point at which stormwater (1) enters surface water or (2) exits the property of a particular owner.

**Owner.** The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.

**Parking lot:** An off-street, ground-level open area for the temporary storage of motor vehicles. An area used exclusively to display motor vehicles for sale as part of an automobile dealership is excluded.

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

**Protected Area.** The area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

**Redevelopment.** Any development on previously-developed land. Redevelopment of structures or improvements that existed prior to December 2006, and would not result in an increase in built-upon area and provides stormwater control at least equal to the previous development is not required to meet the nutrient loading targets of this ordinance.

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

**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.

**Runoff treatment:** The volume of stormwater runoff generated from all of the built-upon area of a project at build-out during a storm of the required storm depth is treated in one or more primary SCMs or a combination of Primary and Secondary SCMs that provides equal or better treatment.

**Runoff volume match:** The annual runoff volume after development shall not be more than ten percent higher than the annual runoff volume before development.

**Single Family Residential.** Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) no lot contains more than one dwelling unit.

**Site Plan:** A proposal for development approval, including drawings, documents, and other information necessary to fully illustrate the proposed development.

**Stormwater Control Measure or SCM:** also known as "Best Management Practice" or "SCM," means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

**Stormwater system.** All engineered stormwater controls owned or controlled by a person that drain to the same outfall, along with the conveyances between those controls. A system may be made up of one or more stormwater controls.

**Street (Road).** A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

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

**Subdivider.** Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

**Subdivision.** All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets. The following shall not be included with this definition nor be subject to the regulations authorized by this

ordinance:

- a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance;
- b) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- c) The public acquisition by purchase of strips of land for the widening or opening of streets;
- d) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this ordinance;
- e) The division of a tract into plots or lots used as a cemetery.

**Substantial progress.** For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. "Substantial progress" for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.

**Town:** The municipality of the Town of Stem, North Carolina.

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

**Use:** The activity occurring on a lot or parcel for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied, including all accessory uses.

- a) **Use, Permitted:** A use that is allowed with a zoning permit and without a public hearing.
- b) **Use, Special:** A use that may be permitted after a quasi-judicial hearing by the Stem *Board of Commissioners*.

**Variance:** A permission granted by the town to relax a requirement established in this ordinance.

**Major Zoning Variance.** A variance to zoning requirements that results in any one or more of the following:

- a) The complete waiver of a management requirement;
- b) The relaxation, by a factor of more than ten (10) percent, of any management requirement that takes the form of a numerical standard.

**Minor Zoning Variance.** A variance to zoning requirements that does not qualify as a major variance.

**Major Watershed Variance:** A variance from the minimum statewide watershed protection rules that results in any one or more of the following:

- a) The relaxation, by a factor greater than five percent, of any buffer, density or built-upon area requirement under the high density option;
- b) The relaxation, by a factor greater than ten percent, of any management requirement under the low density option;
- c) Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system.

**Minor Watershed Variance.** A variance from the minimum statewide watershed protection or Falls Rules that results in a relaxation, by a factor of up to five percent (5%) of any buffer, density or built-upon area requirement under the high density option; or that results in a relaxation by a factor up to ten percent (10%), of any management requirement under the low density option.

**Vehicular use area:** An area used primarily for parking, circulation and storage of vehicles, including parking lots, loading areas, stacking spaces and driveways.

**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 Administrator.** An official or designated person of the town responsible for administration and enforcement of this ordinance.

**Yard:** An open space on the same lot with the building unoccupied and unobstructed by any portion of the structure from the ground upward, except as provided in this Ordinance.

- a) **Yard, front:** A space extending the full width of a lot between the front lot line and the nearest principal structure.
- b) **Yard, rear:** A space extending the full width of a lot between the rear lot line and the nearest principal structure.
- c) **Yard, side:** A space extending the depth of a lot from the front yard to the rear yard between the side lot line and the nearest principal structure.