

4 Overlay and Special Purpose Districts

4.1 Overlay Zoning Districts

4.1.1 The following overlay zoning districts are hereby established:

Full Name	Short Name/Map Symbol
Revitalization District Overlay	RD-O
Neighborhood Preservation Overlay	NP-O
Historic Overlay	H-O
Watershed Protection Overlay	WP-O
Airport Overlay	A-O
NC 127 Central Corridor Overlay	NC 127-O
High Rise Sign Overlay	HRS-O

4.1.2 Purpose

Overlay zoning districts are applied in combination with existing base zoning districts and have the effect of modifying the requirements, regulations and procedures applying in the applicable base-zoning district to the extent expressly indicated in this chapter.

4.2 Revitalization District Overlay

4.2.1 Description

The Revitalization District Overlay (RDO) implements the “Revitalization” policies of the Hickory by Choice 2030 Comprehensive Plan. The RDO is intended to provide flexibility in certain development standards, for redevelopment of existing buildings, while ensuring compatibility with the long-range vision and policy of the comprehensive plan. Revitalization areas typically have a diverse mix of uses, typically adjacent to each other rather than integrated on a single parcel. Revitalization areas generally include, but are not limited to, the U.S. 321 corridor, Springs Road near Shuford Mills, Highland Avenue, and Highway 70 West between South Center Street and the Longview city limits. The RDO is established to achieve the following purposes:

- Foster economic vitality and attractive community character in areas needing revitalization.
- Provide a combination of commercial, office, and residential uses.

4.2.2 Establishment

The RDO shall be applied in combination with any underlying base zoning district. The RDO district is generally applied to those areas identified by Hickory by Choice 2030 as Revitalization areas.

4.2.3 Effect of RDO

The Revitalization District Overlay is intended to allow flexibility in the redevelopment of land. When no special RDO district standards are specified, all other applicable regulations of this Land Development Code will govern.

4.2.4 Building and Design Standards

All redevelopment must comply with the standards and requirements of the underlying zone, except as modified by this overlay zone.

The industrial size limitations of Sec. 6.1 shall not apply to the redevelopment of existing buildings where the most recently approved use would have been classified as Manufacturing and Production, Warehouse and Freight Movement, or Industrial Service under this Land Development Code.

The window requirements of Sec. 3.4.4 shall not apply to the redevelopment of existing buildings, provided that all existing window openings are maintained.

4.2.5 Off Street Parking

The number of off-street parking spaces required by Sec. 9.2.2 shall be reduced by 30 percent.

4.2.6 Landscaping and Screening

All properties in the RDO district shall be subject to the provisions of Sec. 9.13 except as modified below:

- (1) The perimeter landscape buffer requirements of Sec. 9.13.2 shall not apply to the redevelopment of existing buildings where the building footprint does not change and there is not an increase in use intensity.
- (2) All new construction and redevelopment projects where there is an increase in building footprint shall be subject to the landscape buffer requirements of Sec. 9.13.2
- (3) The landscape requirements of Sec. 9.13 shall not apply to existing paved parking, loading, and service areas in the RDO district.
- (4) Existing gravel parking, loading, and service areas shall be paved upon redevelopment or a change in use. The paved surface shall meet the design standards of Sec. 9.1. When existing gravel parking areas are paved, the landscape requirements of Sec. 9.13 shall not apply provided that the overall size of the parking, loading, or service area is not increased by more than 15 percent.

4.2.7 Alternative approval by Planning Commission

The Hickory Regional Planning Commission may approve alternative architectural standards if a finding is made that the proposed alternative meets or exceeds the objectives of this code and is consistent with the objectives of the Hickory by Choice 2030 Comprehensive Plan. Such alternatives shall be approved as a Special Use in accordance with Sec. 2.4

4.2.8 Regulation of Building Design Elements (TA 21-01) (TA 23-02)

Except as authorized by NCGS 160D-702(b), this section shall not regulate the building design elements of any structures subject to regulation under the North Carolina Residential Building Code.

4.3 Neighborhood Preservation Overlay District (TA 15-01)

4.3.1 Applicability

The Neighborhood Preservation Overlay (NP-O) district regulations of this section shall apply to new development and changes of use or occupancy and increasing the number of dwelling units in a structure in the Kenworth, Green Park, Highland, Claremont, and Westmont / West Hickory neighborhoods, which is shown of the City's Official Zoning Map.

4.3.2 Conflicting Provisions

Where conflicts arise between the regulations of the underlying base zoning district, and other overlay districts; the more restrictive provisions shall govern.

4.3.3 Nonconformities

No structure or lot existing at the time when these regulations are adopted shall be deemed nonconforming because of these overlay regulations. An existing structure may be rebuilt if damaged or destroyed even if the structure fails to conform to these regulations.

4.3.4 Building Orientation (TA 15-01)

The main building entrance of any dwelling shall face the street from which the building is addressed.

4.3.5 Parking Location (TA 19-01)

Except for the driveway of a single-family or two-family dwelling, no new off-street parking shall be permitted in the front yard on any residential or non-residential property.

4.3.6 Sidewalks (TA 18-01)

All new buildings and uses, other than single-family dwellings, shall construct a public sidewalk in the right of way or in an easement along all abutting streets.

4.3.7 Porches – Setback Encroachment

Front porches and stoops shall be allowed to encroach into the required front yard up to 10 feet.

4.3.8 Regulation of Building Design Elements (TA 21-01) (TA 23-02)

Except as authorized by NCGS 160D-702(b), this section shall not regulate the building design elements of any structures subject to regulation under the North Carolina Residential Building Code.

4.4 Historic Overlay District (H-O)

4.4.1 Description; Purposes

The H-O, Historic Overlay district is intended to preserve and protect Hickory's locally designated historic districts and historic landmarks, which are among the city's most valued and important assets. H-O districts are established for the following purposes:

- Protecting and conserving the heritage of the City of Hickory and the State of North Carolina;
- Safeguarding the character and heritage of the historic districts and historic landmarks by preserving the historic districts as a whole and any individual property therein or historic landmark that embodies important elements of its social, economic, cultural, political or architectural history;
- Promoting the conservation of such historic districts and historic landmarks for the education, pleasure and enrichment of residents of the historic districts, historic landmarks, the City of Hickory and the state as a whole;
- Fostering civic beauty; and
- Stabilizing and enhancing property values within historic districts and historic landmarks, thus contributing to the improvement of the general health and welfare of the City of Hickory and the residents of the historic districts and historic landmarks.

4.4.2 Applicability

The H-O district regulations shall be applicable to all locally designated historic landmarks and historic districts within the territorial jurisdiction of the City of Hickory.

4.4.3 Historic District Establishment

The historic districts are hereby established as districts in which overlay existing zoning districts, the extent and boundaries of which are as indicated on the official zoning map for the City of Hickory. The H-O district may be applied in combination with any underlying base zoning district.

Historic districts, as provided for in this section, may from time-to-time be designated, amended, or repealed, provided; however, that no district shall be recommended for designation unless it is deemed to be of special significance in terms of its history, prehistory, architecture, and/or culture and to possess integrity of design, setting, materials, feeling, and/or association. No district shall be designated, amended, or repealed until the following procedure has been carried out:

- (1) An investigation and report describing the significance of the buildings, structures, features, sites, or surroundings included in any such proposed district, and a description of the boundaries of such district shall be prepared by the Historic Preservation Commission and a recommendation thereon made to the City Council, and;
- (2) The Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. The districts shall not be established and the authority and the powers established by this section shall not be implemented until the Department of Cultural Resources has been given an opportunity, in accordance with the provisions of G.S. 160D-944(b), to make recommendations with respect to the establishment of the districts. Failure of the department to submit its written analysis and recommendations to the appropriate governing body within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the City of any responsibility for awaiting such analysis. At any time thereafter, the City Council and City staff may take any necessary action to adopt or amend its Land Development Code.
- (3) Once the above described steps have taken place, the city may take action in accordance with the zoning map amendment procedures of Sec. 2.2 to establish an H-O district.

4.4.4 Historic Landmark Establishment

The City Council may adopt, and from time-to-time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, prehistoric, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling, and/or association.

The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural or prehistoric value, including the land area of the property so designated, and any other information the governing body deems necessary. For each building, structure, site, area or object so designated as a landmark, the ordinance shall require that the delay set forth in section 2.5.10 be observed prior to its demolition. A suitable sign for each property designated as a landmark may be placed on the property at the owner's consent. If the property owner does not consent, the city may place a marker in the public right-of-way adjacent to the historic landmark.

No property shall be designated as a landmark until the following steps have been taken:

- (1) As a guide for the identification and evaluation of landmarks, the Historic Preservation Commission shall, at the earliest possible time and consistent with the resources available to it, undertake an inventory of properties of historical architectural, prehistoric, and cultural significance within the zoning jurisdiction of the City of Hickory.

- (2) The Historic Preservation Commission shall make or cause to be made an investigation and report on the historic, architectural, prehistoric, educational, or cultural significance of each building, structure, site, area, or object proposed for designation or acquisition. Such a report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.
- (3) The Department of Cultural Resources shall be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. All comments shall be provided in writing. If the department does not submit its comments to the Historic Preservation Commission within 30 days following receipt by the department of the report, the Historic Preservation Commission and the City Council shall be relieved of any responsibility to consider such comments.
- (4) The Historic Preservation Commission and the City Council shall hold a joint public hearing (or separate public hearings) on the proposed ordinance. Reasonable notice of the time and place thereof shall be given.
- (5) Following the public hearings(s), the Historic Preservation Commission may recommend and the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.
- (6) Upon adoption of the ordinance, the owners and occupants of each landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and amendments thereto shall be filed by the Historic Preservation Commission in the office of the Register of Deeds. Each landmark shall be indexed according to the name of the owner of the property in the grantor and grantee indexes in the office of the Register of Deeds of the county in which the landmark is located. Each landmark ordinance and all amendments thereto shall be indexed according to the name of the owner of the property in the grantor and grantee indexes of the office of the Register of Deeds, and the Historic Preservation Commission shall pay a reasonable fee for filing and indexing. A second copy of the ordinance and all amendments thereto shall be kept on file in the office of the clerk of the City of Hickory and shall be made available for public inspection at any reasonable time.
- (7) Upon the adoption of the landmark ordinance or any amendments thereto, it is the duty of the Historic Preservation Commission to give notice thereof to the tax supervisor of the county in which the landmark is located.

4.4.5 Effect of H-O District

The H-O district regulations apply in combination with underlying base zoning district regulations and all other applicable standards of this Land Development Code. When H-O district standards conflict with the underlying base zoning district standards or other regulations of this Land Development Code, the regulations of the H-O district will always govern. When no special H-O district standards are specified, all other applicable regulations of this Land Development Code will govern.

4.4.6 Allowed Uses

All uses permitted in the underlying zoning district, whether by right or as a Special Use, shall be permitted in the H-O district in accordance with the procedures established for such uses.

4.4.7 Intensity, Dimensional and Design Standards

Structures within H-O districts shall comply with the Intensity, Dimensional and Design Standards of Chapter 7, except as provided in Sec. 4.4.8 and Sec. 4.4.9.

4.4.8 Authentic Restoration or Reconstruction

Approval by Historic Preservation Commission and Board of Adjustment. Where it is found by the Historic Preservation Commission that an application for a building permit covers activity constituting an authentic restoration or reconstruction in the same location as the original location and in the original conformation of a structure of historic and/or architectural significance to the H-O district, such activity may be approved by the Board of Adjustment, following approval by the Historic Preservation Commission, even though it does not comply with applicable dimensional standards.

Approval Subject to Conditions. The Board of Adjustment, in approving such authentic reconstruction or restoration, may attach reasonable and appropriate conditions to the approval, such that the public health, safety and general welfare shall be protected.

Encroachment over Public Right-of-Way. In addition to any other condition the Board of Adjustment may make regarding such authorization, any items restored, reconstructed or maintained on, over or within a public sidewalk, public alley area, or other public way, shall be the responsibility of the owner, and the owner's heirs and assigns. The owner's restoration, reconstruction or maintenance of any such item within such area shall constitute the owner's agreement to protect and hold the City of Hickory blameless against any and all liability, cost, damage or expense suffered by the City of Hickory as a result of or growing out of the restoration, reconstruction or maintenance thereof. Such items, so approved, may be lawfully restored, reconstructed or maintained. Any such item projecting over the vehicular travel way of a street or alley shall be, at its lowest point, 12 feet above the travel way.

Limitation on Approval. The Board of Adjustment shall not be authorized, in action undertaken by this section, to approve a use of property that is not a use permitted by-right or as a Special Use within the underlying zoning district.

4.4.9 Parking Waiver

Where the Historic Preservation Commission, in considering an application for a Certificate of Appropriateness, shall make a written finding that the number of off street parking spaces required by this Land Development Code for the building or structure for which a building permit is requested would render the building incongruous with the historic aspects of the H-O district, it shall recommend to the Board of Adjustment a waiver, in part or in whole, of the off street parking requirements.

The Board of Adjustment may authorize a lesser number of off street parking spaces, provided that the Board of Adjustment finds that the lesser number of off street parking spaces will not create problems due to increased on street parking, and will not constitute a threat to public safety.

4.4.10 Historic Preservation Commission Recommendation on Special Use Applications

All special use applications within the historic districts and historic landmarks shall be reviewed by the Historic Preservation Commission at its next regular meeting after the application has been submitted in accord with the requirements of this Land Development Code. The Historic Preservation Commission shall forward its comments and recommendations to the Hickory Regional Planning Commission within 30 days of the filing of the application. The recommendations shall be presented to all review and decision-making bodies on the Special Use.

4.4.11 Certificate of Appropriateness

Procedures. Certificates of Appropriateness shall be reviewed and approved in accordance with the procedures of Sec. 2.5.

4.5 Watershed Protection Overlay District (WP-O) (TA 18-01) (TA 23-02)

4.5.1 General Provisions

Intent. The WP-O, Watershed Protection Overlay district provisions of this section are intended to carry out the requirements of Article 21 of Chapter 143 of the General Statutes of North Carolina and to limit the exposure of public supply watersheds to pollution from surface water runoff. The sources of such pollution include stormwater runoff from built upon areas, leachate from sanitary landfills, accidental spills of hazardous materials, wastewater discharges, soil erosion, land application of sludge or petroleum contaminated soils and other point and nonpoint sources of pollution. Generally, land within the Lake Hickory Water Supply Watershed is classified as WS-IV, and land within the Jacob's Fork Water Supply Watershed is classified as WS-III.

Effect of WP-O District Designation. The WP-O district is applied in combination with existing base zoning districts and has the effect of modifying the requirements, regulations and procedures applying in the applicable base-zoning district to the extent expressly indicated in this section. When no special WP-O district standards are specified, all other applicable regulations of this Land Development Code will govern.

4.5.2 Applicability; Exemptions (TA 21-01) (TA 23-02)

New development within WS-IV watershed areas on parcels or project sites equal to or greater than one (1) acre shall comply with the requirements of this section. Development on parcels or project sites less than one (1) acre are not exempt if they are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place on different schedules. All new development shall comply with the buffer requirements of Sec. 4.5.10.

Existing development is not subject to the requirements of this section. 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.

Single lots of record as of July 1, 1993, if zoned for residential use, may be developed for single family residential purposes in accordance with the other requirements of the Hickory Land Development Code without being subject to the restrictions of this section. Such lots of record shall not be required to be combined to achieve the density standards of this section.

Expansions to non-single family structures classified as existing development must meet the requirements of this section; however, the built upon area of the existing development is not required to be included in the density calculations. Expansions to structures other than existing development must meet the requirements of this section for the entire site.

Redevelopment of built upon areas of existing development is allowed if the rebuilding activity does not have a net increase in built upon area or provides equal or greater stormwater control than the previous development.

Single family dwellings may be expanded, redeveloped or replaced in accordance with the other requirements of the Hickory Land Development Code without being subject to the restrictions of this section.

Nothing contained herein shall repeal, modify, or amend any state or federal law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this ordinance amend, modify, or restrict any provisions of the City's Code of Ordinances resolutions, and regulations in effect in the City at the time of the adoption of this ordinance that may be constituted to impair or reduce the effectiveness of this ordinance or to conflict with any of its provisions.

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

4.5.3 WP-O District Boundaries

The boundaries of the WP-O district are shown on the official zoning map. The WP-O district is divided into critical area, balance of watershed, and protected area sub districts shown on the official zoning atlas.

4.5.4 Definitions (TA 21-01)

Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application. The definitions of this subsection shall be used solely for the purpose of interpreting and administering the Watershed Overlay district provisions of this section.

Term	Definition
Animal Unit	A unit of measurement developed by the US Environmental Protection Agency that is used to compare different types of animal operations.
Balance of Watershed (BW)	The area adjoining and upstream of the critical area in the WS-III (Jacob’s Fork) water supply watersheds. The “balance of watershed” is comprised of the entire land area contributing surface drainage to the stream, river, or reservoir where the water supply intake is located. This term applies to any portion of the Hickory Regional Planning Area located in the Jacobs Fork Water Supply Watershed for the application of watershed protection overlay district regulations.
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.
Built-Upon Area	Built-upon area means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches thick over a geotextile fabric; a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, such as the area between sections of pavement that support the weight of a vehicle (except as exempted by State law).
Common Plan of Development	Site with multiple lots where there is a single development plan for all the lots, usually represented by a master plan or a set of declarations or restrictive covenants.
Critical Area	The watershed area adjacent to Lake Hickory west of the NC 127 bridge extending either one half mile from the normal pool elevation of the lake or to the ridgeline of the watershed (whichever comes first) where the risk associated with pollution of the water supply is greatest. This term also applies to any portion of the Hickory Regional

	Planning Area located in the Jacob's Fork Water Supply Watershed for the application of watershed protection overlay district regulations.
Developed Parcel	Any parcel of a parcel pair that, under any approval granted under this part, may be developed to a development density or intensity that exceeds the maximum development density or intensity that would apply to the parcel if the paired-parcel averaged-density development option were not available.
Exemption	An exemption is the complete waiver of a management requirement or the relaxation of any management requirement that applies to a development proposal intended to qualify under the high-density option.
Existing Development	Those projects that are built or that have a established vested right under North Carolina General Statutes as of July 1, 1993. Existing development, for the purposes of these rules, shall be defined as 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 this Water Supply Ordinance (July 1, 1993) or such earlier time that the City of Hickory's management plans and ordinance shall specify, based on at least one of the following criteria: (1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid approval from the City of Hickory to proceed with the project; or upon having an approved preliminary plat or planned development or group housing development plan; or (2) Having a valid building permit as authorized by North Carolina General Statute ; or (3) Having a valid zoning compliance permit as outlined within this ordinance.
Existing Lot	A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to July 1, 1993.
Hazardous Material	Any substance listed as such in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) at 42 U.S.C. Chapter 103 (CERCLA); the 1986 amendments to CERCLA known as the Superfund Amendments and Reauthorization Act (SARA, Section 302 (dealing with extremely hazardous substances); or 33 U.S.C. § 1321 (Section 311 of the Clean Water Act dealing with oil and hazardous substances.
Impervious Coverage (TA 14-01)	That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas, recreation facilities (e.g., tennis courts, etc.) (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.) Measurements of impervious coverage shall be based upon net project area excluding land within existing street right of way or within the flooding easements of Lake Hickory.
Landfill	A facility used for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the NC General Statutes. For the purpose of this section, the term does not include composting facilities.
Major Variance	A variance that is not a minor variance as defined in this ordinance.
Minor Variance	A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to five (5) percent of any buffer, density or built-upon area requirement under the high-density option; or that results in a relaxation, by a factor of up to ten (10) percent, of any management requirement under the low-density option. For variances to a vegetated setback requirement, the percent variation shall be calculated using the footprint of built-upon area proposed to encroach with the vegetated setback divided by the total area of vegetated setback within the project.
Nonresidential Development	All development other than residential development, agriculture or silviculture.

Paired-parcel Averaged-density Development (TA 14-01)	A development proposal that includes a parcel pair meeting the development standards of this Section and that qualifies for local development approval under the density-averaging provision of NCGS §143-214.5.
Parcel Pair	Two noncontiguous parcels of land under the same or separate ownership, or two contiguous parcels of land under separate ownership, the development plans for which have been submitted in tandem so as to qualify for density averaged development permission under this Section.
Perennial Stream	Streams that have flow year-round and are shown on the US Geological Survey's quadrangle as a solid blue line or as identified by the jurisdictional assessment required in this section.
Protected Area	The area adjoining and upstream of the critical area of the Water Supply Watershed in which protection measures are required. The boundaries of the protected area are defined as extending five miles upstream and draining to the portions of Lake Hickory west of the NC 127 bridge or to the ridgeline of the watershed, whichever comes first. This term also applies to any portion of the Hickory Regional Planning Area located in the Jacobs Fork Water Supply Watershed for the application of watershed protection overlay district regulations.
Stormwater Control Measures (SCMs)	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 Design Manual	The latest edition of the Stormwater Design Manual published by the North Carolina Department of Environmental Quality, Division of Energy, Mineral, and Land Resources (DEQ, DEMLR)
Surface Waters	All waters of the State as defined in NCGS 143-212 except ground waters.
Undeveloped Parcel	The parcel in a parcel pair that is not developed.
Vegetative Conveyance	A low-density stormwater diversion / control feature meeting the following criteria: <ol style="list-style-type: none"> 1. Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and 2. The conveyance shall be designed so that it does not erode during peak flow from the 10-year storm event as demonstrated by engineering calculations.
Waterbody	A natural or man-made basin, including lakes, ponds, and reservoirs, that stores surface water permanently at depths sufficient to produce the growth of non-hydrophilic rooted plants.
Water Dependent Structure	Any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boathouses, 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).

4.5.5 Allowed and Prohibited Uses in Watershed Areas (TA 23-02)

Allowed = Yes / Prohibited = No

Activity / Use	WS-III CA	WS-III BW	WS-IV CA	WS-IV PA
New landfills	No	Yes	No	Yes
New permitted residual land application	No	Yes	No	Yes
New permitted petroleum contaminated soils sites	No	Yes	No	Yes
NPDES General or Individual Stormwater discharges	Yes	Yes	Yes	Yes
NPDES General Permit Wastewater Discharges pursuant to 15A NCAC 02H .0127	Yes	Yes	Yes	Yes
New NPDES Individual Permit domestic treated wastewater discharge	No	Yes	Yes	Yes
New NPDES Individual Permit industrial treated wastewater discharge	No ^b	No ^b	Yes	Yes
Non-process industrial waste	Yes	Yes	Yes	Yes
New industrial connections and expansions to existing municipal discharge with pretreatment program pursuant to 15A NCAC 02H .0904	No	No	Yes	Yes
Sewage	No ^c	No ^c	No ^c	No ^c
Industrial Waste	No ^c	No ^c	No ^c	No ^c
Other wastes	No ^c	No ^c	No ^c	No ^c
Groundwater remediation project discharges ^e	Yes	Yes	Yes	Yes
Agriculture ^f	Yes	Yes	Yes	Yes
Silviculture ^g	Yes	Yes	Yes	Yes
Residential Development ^h	Yes	Yes	Yes	Yes
Non-residential Development ^{hi}	Yes	Yes	Yes	Yes
Nonpoint Source Pollution ^k	Yes	Yes	Yes	Yes
Animal Operations ^l	Yes	Yes	Yes	Yes

Notes:

^a Permitted pursuant to 15A NCAC 02B .0104

^b Except non-process industrial discharges are allowed

^c Only allowed if specified in 15A NCAC 02B .0104

^d Not allowed if activity(ies) has/have adverse impact on human health

^e Where no other practical alternative exists

^fIn WS-I watersheds and Critical Areas of WS-II, WS-III, and WS-IV watersheds, agricultural activities conducted after 1/1/1993 shall maintain a minimum 10- foot vegetated setback or equivalent control as determined by Soil and Water Conservation Commission along all perennial waters indicated on most recent version of USGS 1:24000 scale (7.5 minute) topographic maps or as determined by local government studies.

^g Subject to Forest Practice Guidelines Related to Water Quality (02 NCAC 60C .0100 to .0209) Effective 4/1/2018

^h See density requirements in 15A NCAC 02B .0624

ⁱ See different allowed and not allowed in this table.

^j Watershed shall remain undeveloped except for following uses when they cannot be avoided: power transmission lines, restricted access roads, and structures associated with water withdrawal, treatment, and distribution of WS-I waters. Built upon area shall be designed and located to minimize stormwater runoff impact to receiving waters.

^kNon Point Source pollution shall not have adverse impact, as defined in 15A NCAC 02H .1002, on use as water supply or any other designated use.

^lDeemed permitted, as defined in 15A NCAC 02T .0103 and permitted under 15A NCAC 2H .0217

4.5.6 Restrictions on Uses within the Protected and Critical Areas

Within the critical area, agriculture is subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990.

Agricultural activities must maintain a minimum 10 foot-wide vegetated buffer or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters as shown on the official zoning atlas.

Animal operations greater than 100 animal units shall employ best management practices by July 1, 1994. The Soil and Water Conservation Commission is responsible for implementing these provisions pertaining to agricultural activities.

Silviculture activities shall be subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15A NCAC 1.I.0101.0209). The North Carolina Division of Forest Resources is responsible for implementing these provisions pertaining to silviculture activities.

New nonresidential development within watershed areas shall incorporate adequately designed, constructed and maintained spill containment structures if hazardous materials are either used, stored or manufactured on the premises.

The construction of new roads and bridges and nonresidential development shall minimize built upon area, divert stormwater away from surface water supply waters as much as possible, and employ stormwater control measures (SCMs) to minimize water quality impacts.

Road construction shall use SCMs outlined in the North Carolina Department of Transportation document entitled, "Best Management Practices for the Protection of Surface Waters."

4.5.7 Density Requirements

Within the protected and critical areas, the following density and impervious coverage limits shall apply to new development that is not otherwise exempted by Section 4.5.2 above:

Low Density Option (WS-III)

- (1) New development under the low-density option is not required to provide SCMs meeting the design standards of the NCDEQ, DEMLR as the primary treatment system for stormwater runoff.
- (2) Within the critical area, residential uses are allowed at a maximum density of 1 dwelling unit per acre; other residential and all nonresidential development shall be subject to a maximum impervious coverage limit of 12 percent. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.
- (3) Within the balance of watershed, single-family detached residential projects are allowed at a maximum density of 2 dwelling units per acre; all other residential and all nonresidential development shall be subject to a maximum impervious coverage limit of 24 percent. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.

Low-Density Option (WS-IV)

- (1) New development under the low-density option is not required to provide SCMs meeting the design standards of the NCDEQ, DEMLR as the primary treatment system for stormwater runoff.
- (2) Within the critical area, residential uses are allowed at a maximum density of 2 dwelling units per acre; other residential and all nonresidential development shall be subject to a maximum impervious coverage limit of 24 percent. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.
- (3) Within the protected area, residential projects utilizing curbs and gutters are allowed at a maximum density of 2 dwelling units per acre; other residential and all nonresidential development shall be subject to a maximum impervious coverage limit of 24 percent. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.

High Density Option (WS-III)

- (1) New development under the high-density option must employ SCMs, or alternative stormwater management systems consisting of other treatment options, or a combination of treatment options approved by the NCDEQ, DEMLR.
- (2) SCMs engineered to control and treat the first one inch of rainfall, designed by a North Carolina registered professional engineer and meeting the design standards of the NCDEQ, DEMLR, must be employed under the high-density option as the primary treatment system for stormwater runoff.
- (3) Under the high-density option, maximum impervious coverage shall not exceed 30 percent in the critical area or 50 percent in the protected area on a project-by-project basis. The exposed surface area in plan view of a SCM may be considered pervious when computing impervious area.

High Density Option (WS-IV)

- (1) New development under the high-density option must employ SCMs, or alternative stormwater management systems consisting of other treatment options, or a combination of treatment options approved by the NCDEQ, DEMLR.
- (2) SCMs engineered to control and treat the first one inch of rainfall, designed by a North Carolina registered professional engineer and meeting the design standards of the NCDEQ, DEMLR, must be employed under the high-density option as the primary treatment system for stormwater runoff.
- (3) Under the high-density option, maximum impervious coverage shall not exceed 50 percent in the critical area or 70 percent in the protected area on a project-by-project basis. The exposed surface area in plan view of a SCM may be considered pervious when computing impervious area.

4.5.8 Cluster Development (TA 21-01)

Clustering of development is permitted on a project-by-project basis in protected and critical areas, subject to Sec. 8.8 and Chapter 5 and the following conditions:

Minimum lot sizes are not applicable to single family dwelling cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-family detached residential development outlined herein. Density or built-upon area for the project shall not exceed that allowed for the critical area, protected area, whichever applies.

All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.

Areas of concentrated density development shall be located in upland areas and away, to the maximum extent practical, from surface waters and drainage ways.

The remainder of the tract shall remain in a vegetated or natural state. The title to the open spaces area(s) shall be conveyed to an incorporated homeowners association for management; to a local government for conservation as a park or open space; or to a conservation organization for preservation in a permanent easement. When a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

Cluster development that meets the applicable low density requirement shall transport stormwater runoff by vegetated conveyances to the maximum extent practical.

4.5.9 Planned Developments

Planned developments shall be treated as a single property where development-wide stormwater and erosion control measures are utilized. Project densities and impervious coverage may be calculated on a development-wide basis for such projects.

4.5.10 Buffer Areas Required (TA 23-02)

A minimum one hundred (100) foot vegetative setback is required for all new development activities that exceed the low-density option; otherwise, a minimum thirty (30) foot vegetative setback for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined government studies. Desirable artificial streambank or shoreline stabilization is permitted.

Where USGS topographic maps do not distinguish between perennial and intermittent streams, an on-site stream determination may be performed by an individual qualified to perform such stream determinations.

No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

4.5.11 Calculation of Project Density (TA 23-02)

(A) The following requirements shall apply to the calculation of project density.

- (1) Project density shall be calculated as the total built-upon area divided by the total project area;
- (2) A project with "Existing Development," as defined in this ordinance, may use the calculation method in Sub-Item (1) of this Item or may calculate project density as the difference of total built-upon area minus existing built-upon area divided by the difference of total project area minus existing built-upon area.

- (3) Expansions to Existing Development shall be subject to 15A NCAC 02B .0624 except as excluded in Rule 15A NCAC 02B .0622 (1)(d).
- (4) Where there is a net increase of built-upon area, only the area of net increase shall be subject to density and built upon area limits.
- (5) Where Existing Development is being replaced with new built-upon area, and there is a net increase of built-upon area, only the area of net increase shall be subject to density and built upon area limits.
- (6) Total project area shall exclude the following:
 - (a) areas below the normal high water line (NHWL); and
 - (b) areas defined as "coastal wetlands" pursuant to 15A NCAC 07H .0205, herein incorporated by reference, including subsequent amendments and editions, and available at no cost at <http://reports.oah.state.nc.us/ncac.asp>, as measured landward from the NHWL; and
- (7) Projects under a common plan of development shall be considered as a single project for purposes of density calculation except that on a case-by-case basis, local governments may allow projects to be considered to have both high and low density areas based on one or more of the following criteria:
 - (a) natural drainage area boundaries;
 - (b) variations in land use throughout the project; or
 - (c) construction phasing.

(B) Low Density Projects

In addition to complying with the project density requirements of Item (A) of this Rule, low density projects shall comply with the following:

- (1) Vegetated Conveyances. Stormwater runoff from the project shall be released to vegetated areas as dispersed flow or transported by vegetated conveyances to the maximum extent practicable. Vegetated conveyances shall be maintained in perpetuity to ensure that they function as designed. Vegetated conveyances that meet the following criteria shall be deemed to satisfy the requirements of this Sub-Item:
 - (a) Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and
 - (b) The conveyance shall be designed so that it does not erode during the peak flow from the 10-year storm event as demonstrated by engineering calculations.
- (2) CURB OUTLET SYSTEMS. In lieu of vegetated conveyances, low density projects shall have the option to use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. Requirements for these curb outlet systems shall be as follows:
 - (a) The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the 10-year storm and at a non-erosive velocity;

- (b) The longitudinal slope of the swale or vegetated area shall not exceed five percent except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;
- (c) The swale's cross section shall be trapezoidal with a minimum bottom width of two feet;
- (d) The side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical);
- (e) The minimum length of the swale or vegetated area shall be 100 feet; and
- (f) Low density projects may use treatment swales designed in accordance with 15A NCAC 02H .1061 in lieu of the requirements specified in Sub-Items (a) through (e) of this Sub-Item.

(C) HIGH DENSITY PROJECTS. In addition to complying with the project density requirements of Item (A) of this Rule, high density projects shall comply with the following:

- (1) Stormwater Control Measures (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 15A NCAC 02B .0621;
- (2) 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;
- (3) Stormwater runoff from off-site areas and existing development, 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;
- (4) SCMs shall meet the relevant Minimum Design Criteria set forth in 15A NCAC 02H .1050 through .1062; and
- (5) Stormwater outlets shall be designed so that they do not cause erosion downslope of the discharge point during the peak.

4.5.12 Application Submittal Requirements (TA 21-01)

In addition to the information otherwise required to be submitted with Zoning Compliance Permits, the following information shall be required to be submitted with Zoning Compliance Permit applications for all projects within the WP-O district:

- (1) The square footage and percent of impervious coverage area.
- (2) For residential projects, total dwelling units and dwelling units per acre.
- (3) The accurate location of all perennial streams and natural drainage areas on the property.
- (4) The location and landscaping proposed for all required buffer areas.
- (5) For high density projects, copies of the development plan including a location map, adjoining property owners, lot dimensions, and rights of way; the accurate location of all existing and proposed buildings and other structures, and the location and size in square feet of all impervious coverage areas. In cases where the developer intends to sell development rights to a third party or subdivide the property, the plan must specify the maximum allowed impervious coverage area for each parcel or tract.
- (6) For high density projects, the location of any stormwater SCMs and copies of the plans and specifications for any stormwater SCMs designed and sealed by a North Carolina registered professional engineer with qualifications appropriate for the type of system required.

- (7) Copies of the plans and specifications for proposed drainage facilities, including approximate location and dimensions of open drainage ways, storm drains, culverts, stormwater SCMs or areas where water is to be diverted through grading, designed either by a North Carolina Registered Engineer or Landscape Architect, to the extent that the North Carolina General Statutes, Chapter 89A, allow.
- (8) Written verification that a soil erosion and sedimentation control plan has been submitted to and approved by the appropriate state or local agency.
- (9) Permit application fees as set by the Hickory City Council.
- (10) For high density projects, a legal description of the area containing the stormwater SCMs and providing access to said SCMs shall be prepared as an easement to be filed with the Register of Deeds. The easement shall include the SCMs, vegetative filters, all pipes and water control structures, berms dikes, and area necessary to perform inspections, maintenance and repair.
- (11) For high-density option projects, the proposed security performance guarantee or other security to provide adequate financial assurance for the construction of the SCMs and associated stormwater control structures.
- (12) For high density option projects, the Proposed Operation and Maintenance Agreement between the City of Hickory and the owning entity to maintain, repair and if necessary, reconstruct the SCMs and its associated stormwater control structures in accordance with the operation and management plan and manual provided by the developer.
- (13) For high density option projects, an operation and maintenance plan and manual indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used to determine when those actions are to be taken and who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring the SCMs to design specifications if a failure occurs.

4.5.13 Density Averaging (TA 14-01) (TA 23-02)

Density averaging involves the use of two (2) noncontiguous parcels and is based on the premise the development plans for a pair of parcels can be submitted together and treated as a single project for purposes of these regulations. The amount of development allowed for the paired parcel taken together cannot exceed the amount of development that would be allowed if the parcels were developed separately.

- A. Documentation shall be submitted to ensure that both parcels considered together meet the standards of the ordinance and that potential buyers have notice of how the watershed regulations were applied to the parcel pair. Only owners of both of the paired parcels may submit the documentation. A site plan for both parcels must be submitted and approved as part of the approval process. If approval is granted, no change in the development proposal authorized for either parcel shall be made unless the approval is amended. Included with the documentation will be a site plan, registered plats for both properties, a description of both properties and documentation reflecting the development restrictions to the parcel pair that will remain undeveloped. A metes and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants and on individual deeds, and shall be irrevocable.
- B. Density Averaging shall be considered if the following exist:
 - (1) Parcels pairs being submitted for approval under this provision shall be submitted for development approval as a single unitary proposal.
 - (2) Sufficient information shall be submitted so that it may be determined that the density of the paired parcels, calculated either by dwelling units per acre or built upon area,

shall not exceed the density that would be allowed if the parcels were developed separately. The paired parcels shall be located within the same water supply watershed and preferably in the same drainage area of the watershed. Parcels to be used in pairs may be located in the Protected or Critical Areas. However, if one of the parcels is located in the Critical Area and one is located in the Protected Area the Critical Area parcel shall not be developed beyond the applicable density requirements for its classification.

- (3) Vegetative buffers shall at a minimum meet the appropriate minimum statewide water supply watershed protection requirements on both parcels in the parcel pair according to the density of development occurring on each parcel. Areas of concentrated density development are to be located in upland areas, and to the maximum extent practical, away from surface waters and drainageways.
- (4) Sufficient information shall be submitted so that it may be demonstrated that the parcels are designed to:
 - a. Minimize stormwater runoff impact to the receiving waters by minimizing concentrated storm water flow;
 - b. Maximize the use of sheet flow through vegetated areas;
 - c. Minimize impervious surface areas;
 - d. Locate development away from surface waters and drainage ways to the maximum extent practicable; and
 - e. Convey storm water from developed areas by vegetated swales to the maximum extent practical.
- (5) The undeveloped parcel(s) or portion(s) thereof shall remain in a vegetated or natural condition and shall be placed in a permanent conservation easement.
- (6) Applicants shall agree to bind themselves and their successors in title, individually and collectively, to maintain the pattern of development proposed in perpetuity. Parties to enforcement of such agreement shall include the City of Hickory. No such agreement shall be accepted without approval of the Staff Attorney as to the legal sufficiency of the documents involved.
- (7) Undeveloped land areas proposed for incorporation into the density or impervious coverage area calculation shall meet the following criteria:
 - a. Projects in the Protected Area or Balance of Watershed may incorporate undeveloped land elsewhere in the Protected Area, Balance of Watershed or Critical Area of the same water supply watershed. The amount of additional undeveloped acreage required shall be determined by dividing the appropriate density or impervious coverage area factor into the number of dwelling units or impervious coverage area in excess of the amount permitted on the project site by these regulations to determine the amount of other land to be reserved as undeveloped so that the overall density or intensity of the project shall not exceed the density or intensity that would be allowed if the parcels were developed separately .
 - b. Parcels located in critical areas may not be developed beyond the applicable density requirements of its classification.

- c. Undeveloped land included to meet the requirements of one project shall not be included as meeting the requirements of any existing or proposed project nor shall any land included in a parcel pair for which a watershed variance has been granted or would be required.
 - d. Land areas within the flooding easement of Lake Hickory may not be used for the purposes of this section.
- (8) The Planning Director shall only grant approval when documentation is provided that is supported by appropriate calculations that the plan as a whole conforms to the intent and requirements of this section, and that the proposed agreement assures protection of the public interest and achievement of the objectives of this section.
- (9) At the time of the issuance of the Zoning Compliance Permit, the density averaging agreement shall be caused to be recorded by the Planning Director in the office of the appropriate Register of Deeds and filed with the offices of the Planning Director. Notations shall be made by the Planning Director on the official zoning atlas and the approved development plans and or plats for future guidance in administration and as a public record.
- (10) The pattern of development and the agreement between the owners shall not be changed except by the issuance of a new or amended density averaging agreement in the manner herein established.

4.5.14 Financial Security (TA 21-01)

All new SCMs and stormwater control structures shall be conditioned on the posting of adequate financial assurance for the purpose of construction, maintenance, repairs or reconstruction necessary for adequate performance of the SCMs and stormwater control structures.

Financial assurance shall be in the form of the following:

- (1) Construction Security Performance Guarantee or Other Security.** The permit applicant shall obtain a construction performance guarantee as provided within this Land Development Code. . The performance guarantee shall be in an amount equal to 1.25 times the total cost of the stormwater control structure, as estimated by the applicant and approved by the City Engineer. The total cost of the stormwater control structure shall include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and grading, excavation, fill, etc. The costs shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization.
- (2) Maintenance Security.** A performance guarantee (as mentioned above) shall be obtained by the permit applicant/owner. The performance guarantee shall be in an amount determined by the City Engineer. The performance guarantee shall be required to ensure that the owner takes the necessary actions to inspect, maintain, repair, and if necessary reconstruct the SCMs and stormwater control structures. The maintenance security must be submitted to the City Engineer before a permanent certificate of occupancy can be issued.
- (3) Operation and Maintenance Agreement.** The permit applicant shall enter into a binding Operation and Maintenance Agreement between the City of Hickory and all interests in the development. The agreement shall require the owning entity to inspect, maintain, repair and, if necessary, reconstruct the SCMs and stormwater control structures in accordance with the Operation and Maintenance Agreement and Manual provided by the developer.

The Operation and Maintenance Agreement and Manual shall be filed with the Register of Deeds by the Legal Department, at the owner's expense. The Operation and Maintenance Agreement and Manual must be submitted to and approved by the City before a permanent certificate of occupancy can be issued.

- (4) **Default Under Performance Guarantee Option.** Upon default of the permit applicant to complete and/or maintain the SCMs and stormwater control structures as spelled out in the performance guarantee or other security, the City may obtain and use all or any portion of the funds necessary to complete and/or maintain the SCMs and stormwater control structures. The City shall return any funds not spent in completing the improvements to the owning entity.
- (5) **Default Under Cash Security Option.** Upon default of the owning entity to construct, maintain, repair and, if necessary, reconstruct the SCMs and stormwater control structures in accordance with the plans and specifications or Operation and Maintenance Agreement and Manual, the City shall obtain and use all or any portion of the cash security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after exhausting all other reasonable remedies seeking the owing entity to comply with the plans and specifications and the terms and conditions of the Operation and Maintenance Agreement and Manual. The City shall return any funds not spent in completing the improvements to the owning entity.

4.5.15 Maintenance and Upkeep

An Operation and Maintenance Agreement and Manual shall be provided by the developer for each SCM and stormwater control structure, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken, and consistent with the Operation and Maintenance Agreement, who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a SCM and stormwater control structure to design specifications if a failure occurs.

Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the SCM and stormwater control structure is diminished or threatened, or to the extent of interfering with any easement or access to the SCM and stormwater control structure.

Except for general landscaping and grounds management, the owning entity shall notify the City Engineer prior to any repair or reconstruction of the SCM and stormwater control structure. All improvements shall be made consistent with the approved plans and specifications of the SCM and stormwater control structure and the Operation and Maintenance Agreement and Manual. After notification by the owning entity, the City Engineer may inspect the completed improvements and if necessary inform the owning entity of any required additions, changes or modifications and of the time period to complete said improvements.

Amendments to the plans and specifications of the stormwater control structure and/or the Operation and Maintenance Agreement and Manual shall be approved by the City Engineer. Proposed changes shall be prepared by a North Carolina registered professional engineer or landscape architect (to the extent that the General Statutes, Chapter 89A allow) and submitted to, and reviewed by the City Engineer.

If the City Engineer finds that the operation and maintenance plan and manual is inadequate for any reason, the City Engineer shall notify the owning entity of any required changes.

4.5.16 Application and Inspection Fees

Processing and inspection fees shall be submitted in the form of a check or money order made payable to the City of Hickory. Applications shall be returned if not accompanied by the required fee.

A permit and inspection fee schedule, as approved by the City of Hickory, shall be posted in the Office of the Planning Director.

Inspection fees shall be valid for 60 days. An inspection fee shall be required when improvements are made to the SCM and stormwater control structure except in the case when a similar fee has been paid within the last 60 days.

4.5.17 Inspections and Release of the Construction Performance Guarantee (TA 21-01)

The City Engineer shall inspect the SCM and stormwater control structure, after the owner notifies the City Engineer that all work has been completed. After this inspection is completed the owning entity shall provide:

- (1) The necessary easements and final survey plat for the SCM and stormwater control structure ready for filing with the Register of Deeds;
- (2) A certification and as-built drawings sealed by an engineer or landscape architect (to the extent that the General Statutes, Chapter 89A allow) stating that the SCM and stormwater control structure is complete and consistent with the approved plans and specifications.
- (3) A maintenance security in an amount approved by the City Engineer.

The City Engineer shall review the materials submitted by the developer and the final inspection report.

- (1) If the City Engineer approves the final inspection report and accepts the certification, as built, and easements; the City shall file the easements with the Register of Deeds, at the owner's expense and release the performance guarantee or other security and issue a Certificate of Watershed Protection Compliance for the SCM and stormwater control structure.
- (2) If deficiencies are found, the City Engineer shall direct those improvements and inspections be made and/or documents corrected and resubmitted before a permanent certificate of occupancy can be issued.

4.5.18 Annual Inspections

All SCMs and stormwater control structures shall be inspected on an annual basis by a qualified professional to determine whether the SCMs and stormwater control are performing as designed and intended. Records of inspection shall be recorded and submitted on forms supplied by the City Engineer. The annual inspection report shall be submitted to the City Engineer on/or before the first and each subsequent anniversary of the as-built certification.

The inspection report must indicate the status of each item inspected, and any maintenance that was conducted or repairs that were made as a result of the inspection.

4.5.19 SCMs and Stormwater Control Structures

All SCMs and Stormwater control structures shall be designed by either a North Carolina registered professional engineer or landscape architect to the extent that the General Statutes, Chapter 89A allow. Other stormwater drainage systems shall be designed by a North Carolina registered professional with qualifications appropriate for the type of system required; these registered professionals are defined as professional engineers, landscape architects to the extent that the General Statutes, Chapter 89A allow and land surveyors, as provided in General Statutes 89(C) 3(7).

All SCMs and stormwater control structures shall be designed in accordance with the requirements of the NCDEQ, DEMLR, Stormwater Design Manual, latest edition.

All land areas outside of the SCMs and stormwater control structures shall be provided with a ground cover sufficient to restrain erosion after any land disturbance. Upon completion of the SCMs and stormwater control structures, a permanent ground cover shall be established and maintained as part of the maintenance agreement.

A description of the area containing the SCMs and stormwater control structures shall be prepared and filed as a separate easement with the Register of Deeds along with any easements necessary for general access to the SCMs and stormwater control structure. The easement area shall include the SCMs and stormwater control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs and reconstruction.

4.6 Airport Overlay District (TA 23-01)

4.6.1 Definitions

For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Aerodrome	A landing field for airplanes and/or helicopters.
Established Airport Elevation	1,189 feet above mean sea level.
Approach Surface	A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section IV of this ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.
Conical Surface	A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
Hazard To Air Navigation	Any physical, visual or electrical obstruction or activity determined to have an adverse effect on the safe and efficient utilization of the navigable airspace in the vicinity of the Hickory Regional Airport.
Height	For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
Horizontal Surface	A horizontal plane 150 feet above the established airport elevation, the perimeter of which, in plan, coincides with the perimeter of the horizontal zone.
Larger Than Utility Runway	A runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.
Nonconforming Use	Any structure, object (including natural growth), activity or use of land that is inconsistent with the provisions of this Ordinance or an amendment thereto
Non-precision Instrument Runway	A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.
Obstruction	Any structure, growth, or other object, including a temporary or mobile object, which exceeds a limiting height set forth in Sec 4.6.3 of this Ordinance.
Person	An individual, firm, partnership, corporation, company, association, joint stock association, or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
Primary Surface	A surface longitudinally centered on a runway. When the runway has a specially-prepared hard surface, the primary surface extends 200 feet beyond

	each end of that runway; or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
Runway	A defined area on an airport prepared for landing and takeoff of aircraft along its length.
Structure	An object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
Transitional Surfaces	These surfaces extend outward at 90-degree angles to runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each one (1) foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet, measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline
Tree	Any natural growth, including trees and large shrubs.
Visual Runway	A runway intended solely for the operation of aircraft using visual approach procedures

4.6.2 Zones

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones that include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Hickory Regional Airport. Such zones are shown within the most recent version of the Hickory Regional Airport Master Plan and on the Official Hickory Zoning Map, which are attached to this Land Development Code and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined, as follows:

Runway Larger Than Utility Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

Runway Larger than Utility with a Visibility Minimum Greater Than ¾ Mile Non-precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.

Horizontal Zone - The horizontal zone is established by swinging an arc of 10,000 feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward a horizontal distance of 4,000 feet.

Runway Protection Zone – A trapezoidal area off the end of the runway that serves to enhance the protection of people and property on the ground, and air traffic and airport operations.

4.6.3 Airport Zone Height Limitations

No structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance, to a height in excess of the applicable height herein established for such zone, or such lower height mandated by the Federal Aviation Administration. Such applicable height limitations are hereby established for each of the zones in questions, as follows:

Runway Larger Than Utility Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

Runway Larger Than Utility With A Visibility Minimum Greater Than $\frac{3}{4}$ Mile Non-precision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

Transitional Zones - Slopes seven (7) feet outward for each one (1) foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation, [airport elevation 1,189 feet] which is 1,339 feet above mean sea level.

Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 1,339 feet [airport elevation 1,189 feet] above mean sea level.

Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation, 1,539 feet above mean sea level.

Runway Protection Zone – The height of structures shall be limited to the lesser of what is required by the underlying zoning district or 50 feet from the existing or improved grade.

Excepted Height Limitations - Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree, to a height up to 50 feet above the surface of the land.

4.6.4 Use Restrictions

The permissible, conditional, special and accessory uses of properties within the zones established herein shall be limited to those within the underlying zoning district outlined within this Land Development Code.

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

The construction, modification, or alteration of private or public owned aerodromes, including private or public helipads, within the City of Hickory extra-territorial jurisdiction must be coordinated and approved by Hickory Airport administration, and coordinated by the Federal Aviation Administration.

The use, development or redevelopment of property within the Runway Protection Zone (RPZ), as shown on the Official Hickory Zoning Map, which includes the following shall be prohibited:

- (a) Manufacturing and/or bulk storage of combustible or hazardous materials.

- (b) Mining operations.
- (c) Uses that include flashing lights or similar features.
- (d) Uses which create excessive vibrations.

4.6.5 Nonconforming Uses

Regulations Not Retroactive - The regulations prescribed in this section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction or alteration of a use, which was begun prior to the effective date of this Ordinance, and is diligently prosecuted and completed within one year thereof.

Permit Required – Before any structure or tree made nonconforming by the requirements of the Airport Overlay District may be replaced, substantially altered or repaired, the property owner must secure a permit from the Planning Director authorizing such replacement change or repair. No such permit shall be granted that would allow the structure or tree in question to be made higher or become a greater hazard to air navigation than it was when the Airport Overlay District was adopted. Except as provided by this subsection, all applications for permits for replacement, change or repair of uses made nonconforming solely by the requirements of the Airport Overlay District shall be granted.

Trees and Structures 50 Percent Damaged – Whenever the Planning Director determines that nonconforming structure or tree has been abandoned, damaged, demolished, deteriorated or decayed more than 50 percent of its access tax value: (i) no permit shall be granted that would allow said structure or tree to exceed the applicable height limit or otherwise deviate from the regulations of the Airport Overlay District and (ii) whether application is made for a permit or not, the City may by appropriate action compel the owner of the nonconforming structure or tree, at his own expense, to lower, remove, reconstruct, or equip such object as may be necessary to conform to the regulations of the Airport Overlay District or, if the owner of the nonconforming structure or tree shall neglect or refuse to comply with such order for 10 days after notice thereof, the City may proceed to have the object so lowered, removed, reconstructed, or equipped.

Obstruction Marking And Lighting - Notwithstanding this subsection, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Hickory Regional Airport.

4.6.6 Variances.

Variances may be permitted by the Board of Adjustment in accordance with Sec. 2.8.

4.6.7 Permits.

Future Uses - Except as specifically provided in this subsection, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this ordinance shall be granted unless a variance has been approved in accordance with Sec. 2.8.

In the area lying within the limits of the horizontal zone and conical zone, no permit related specifically to the Airport Overlay shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit related to the Airport Overlay shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit related to the Airport Overlay shall be required for any tree or structure less than seventy-five feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Areas within the Runway Protection Zone (RPZ) shall be required to obtain a permit upon change of uses, redevelopment, or new development.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance except as set forth in Section 4.6.3.

4.6.8 Obstruction Marking and Lighting

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this section and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Hickory Regional Airport Commission, at its own expense, to install, operate, and maintain the necessary markings and lights.

4.6.9 Applications for Permit

It shall be the duty of the City Planning Director to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Hickory Regional Planning Commission and/or the Hickory Regional Airport Commission upon a form published for that purpose.

4.6.10 Comment and Review

Prior to the issuance of a permit, the Hickory Regional Airport Director may review the permit application and provide written comments to the Planning Director. Additionally, the Hickory Regional Airport Director may review rezoning, variance and special use petition within the Airport Overlay and provide oral comments or testimony at the hearing which the petition are considered

4.7 NC 127 Central Corridor Overlay District (NC127-O)

4.7.1 Description

The NC 127 Central Corridor Overlay District (NC127-O) is intended to implement the neighborhood-based planning policies of the Comprehensive Plan and to provide for the use of O&I zoned parcels within the overlay to be used for non-residential purposes while protecting the character and integrity of the surrounding residential neighborhood.

4.7.2 Establishment

The NC127-O district will be applied in combination with the OI Zoning District within the overlay district. The NC127-O district shall be established and amended in accordance with the zoning map amendment procedures of Sec. 2.2.

4.7.3 Effect of NC 127-O District

The NC 127-O district regulations shall apply in combination with underlying base zoning district regulations and all other applicable standards of this Land Development Code. When NC127-O district standards conflict with the underlying base zoning district standards or other regulations of this Land Development Code, the regulations of the NC127-O district will always govern. When no special NC127-O district standards are specified all other applicable regulations of this Land Development Code will govern.

4.7.4 Effect on Prior Approvals and Existing Uses and Structures

This section shall render no valid permitted structure or conforming use nonconforming. An existing structure may be rebuilt if damaged or destroyed even if the structure fails to conform to these regulations.

4.7.5 Non-residential Use and Development Standards (TA 18-01)

Uses in the OI districts within the NC127-O shall be limited to the following:

- (1) Parks, plazas and public open spaces areas; and
- (2) Neighborhood-serving retail sales/service establishments and professional offices.

Prohibited Uses.

The following uses are prohibited in an NC127-O district:

- (1) Drive-in businesses, including gas stations, either as principal or accessory uses;
- (2) Fast food restaurants;
- (3) Drive-thru windows except those located at the rear of the building and not within 100 feet of a residentially zoned property;
- (4) Uses involving the sale, rental, service, or repair of automobiles, trucks, or recreational vehicles;
- (5) Industrial Uses as listed in Sec. 6.1 Use Table; and
- (6) Outdoor sales, outdoor display of rental equipment, and outdoor storage.

4.7.6 Parking/Access

Off-street parking requirements shall be reduced by 50% in the NC127-O.

The use of on-street parking is encouraged and may be used to meet minimum parking requirements in the NC127-O district where deemed appropriate by the City Engineer. When off-street parking spaces are provided, they shall be subject to all parking/loading area design, construction and landscaping standards of the Land Development Code and the following requirements.

- (1) No off-street parking spaces may be located between a frontage line and the adjoining right of way; and
- (2) No driveway may exceed 24 feet in width. No driveway for a non-residential development shall be constructed without express approval from the City Engineer. To the greatest extent practical, primary ingress and egress to non-residential properties shall be from NC 127.

4.7.7 Architectural Compatibility

Buildings used or constructed for use in the NC127-O shall be constructed so as to be architecturally compatible with the surrounding residential structures in the neighborhood. Architectural Compatibility shall include:

Buildings used for non-residential purposes shall not exceed 5,000 square feet in total floor area and two stories in height.

All such buildings shall have sloped roofs, entrances oriented towards the abutting street and be constructed of materials compatible with the building material used in the immediate area including brick, stone, wood, and other natural materials.

4.7.8 Signs (TA 11-01)

Non-residential properties in the NC127-O shall be allowed one free standing externally lit sign, a maximum of 16 square feet in area and six (6) feet in height and one externally lit wall sign a maximum of 16 square feet in area.

Signs shall be constructed of materials compatible and consistent with the neighborhood in which they are located. Such materials shall be limited to wood, brick or stone (excluding smooth-faced block), iron or other similar metals, and other natural materials. Such signs may be created from synthetic materials that closely replicate the materials listed in this section.

All signs shall comply with the standards of this subsection, as well as the standards of Chapter 10.

4.7.9 Regulation of Building Design Elements (TA 21-01) (TA 23-02)

Except as authorized by NCGS 160D-702(b), this section shall not regulate the building design elements of any structures subject to regulation under the North Carolina Residential Building Code.

4.8 High Rise Sign Overlay District (HRS-O)

4.8.1 Description

The High-Rise Sign Overlay District (HRS-O) regulates signage and advertising apparatus for businesses that rely on motorists utilizing U.S Interstate 40 (I-40). The boundaries of the HRS-O are shown on the City of Hickory's Official Zoning Map.

4.8.2 Development Standards (TA 11-01) (TA 18-01)

No more than one (1) high rise sign shall be erected on a zoning lot. The maximum height of a high-rise sign shall not exceed 60 feet.

The maximum area of high-rise signs shall not exceed 200 square feet.

All high-rise signs shall be set back at least 5 feet from all lot lines.

Where a high-rise sign is installed, an additional ground mounted freestanding sign may be installed. The area of the high-rise sign shall be excluded from calculations of permitted sign area as outlined in Chapter 10.