

ENVIRONMENT

Chapter 10

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***Editor's note**—Formerly, Ch. 10 pertained to erosion control. Such chapter has been retitled Environment in order to facilitate the inclusion of more diverse subject matter. See also the editor's footnote to Art. III.

Cross reference—Buildings and building regulations, Ch. 7.

State law references—Erosion and Sedimentation Act of 1975, OCGA § 12-7-1 et seq.; duty of council to adopt ordinance governing land-disturbing activities, OCGA § 12-7-4...

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ARTICLE I. IN GENERAL

Sec. 10-1—10-20. Reserved.

ARTICLE II. FLOOD DAMAGE PREVENTION*

DIVISION 1. GENERALLY

Sec. 10-21. Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of the City of Forsyth.
(Ord. of 8-2-94, § 1)

Sec. 10-22. Penalties for violation.

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than ninety (90) days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing contained in this article shall prevent the City of Forsyth from taking such other lawful actions as are necessary to prevent or remedy any violation.
(Ord. of 8-2-94, § 19)

Sec. 10-23. Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

Area of special flood hazard is the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. The area is designated as Zone A on the FHBM, or Zones A, AO, AH, A1—30, AE, A99, VO, or V1—30, VE, or V, on the FIRM.

Base flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

Basement means that portion of a building having its floor subgrade (below ground level) on all sides.

Building means any structure built for support, shelter, or enclosure for any occupancy or storage.

***Editor's note**—An ordinance adopted Aug. 2, 1994, enacted provisions pertaining to flood damage prevention. Such ordinance did not specify manner of codification; hence, inclusion as Art. II, §§ 10-21—10-28, 10-36—10-40, 10-46—10-52, has been at the discretion of the editor.

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Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.

FEMA means the Federal Emergency Management Agency. The Region IV Office refers to the regional office in Atlanta, Georgia.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the approximate boundaries of the areas of special flood hazard have been delineated and defined as Zone A.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study is the official report provided by the Federal Emergency Management Agency following detailed engineering study of the flood hazards in a community. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

Flood proofing means designing or altering a nonresidential structure to render the structure, and attendant utility and sanitary facilities, watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. See FEMA Technical Bulletin 3-93, and FEMA-102, Floodproofing Non-Residential Structures, and subsequent revisions thereto.

Flood resistant materials are building materials capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. The term "prolonged contact" means at least seventy-two (72) hours, and the term "significant damage" means any damage requiring more than low-cost cosmetic repair (such as painting). See FEMA Technical Bulletin 2-93, and subsequent revisions thereto.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

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

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Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sale, or service facilities.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building. If fill has been placed, it refers to the original ground level beneath the fill.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Letter of map amendment (LOMA) means a letter issued by FEMA amending the boundaries of the area of special flood hazard due to natural topographic conditions.

Letter of map revision (LOMR) means a letter issued by FEMA revising the boundaries of the area of special flood hazard and/or base flood elevations due to man-made development, channel alteration, or the development of detailed flood information.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's "lowest floor;" provided, that such enclosure is built in compliance with other applicable flood damage reduction standards.

Manufactured home means a building, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.

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Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this article, the term is synonymous with national geodetic vertical datum (NGVD).

National geodetic vertical datum (NGVD) as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means any structure for which the “start of construction” commenced after August 2, 1994, which is the effective date of this article or the original FIRM, whichever is earlier. The term also includes any subsequent improvements to such structure.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Reference elevation is _____ feet above the base flood elevation or historic flood level.

Retro-fitting means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Start of construction, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

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Substantial improvement means any combination of reconstruction, alteration, rehabilitation, addition, or improvement to a building (including electrical, plumbing, and heating/air conditioning), taking place during a five-year period in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the building. The market value of the building should be:

- (1) The appraised value of the building prior to the start of the initial repair or improvement; or
- (2) In the case of damage, the value of the building prior to the damage occurring.

This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the code enforcement official, which have been cause for issuance of a citation or condemnation, and which are solely necessary to assure safe living conditions.

Variance is a grant of relief from the requirements of this article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

Violation means failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate is presumed to be in violation until such time as that documentation is provided.
(Ord. of 8-2-94, App. 1)

Sec. 10-24. Basis for establishing the areas of special flood hazard.

The “areas of special flood hazard” are those identified by the Federal Emergency Management Agency (FEMA) in its Flood Hazard Boundary Map or Flood Insurance Study and Flood Insurance Rate Map(s), for the City of Forsyth dated April 11, 1975, which with accompanying supporting data, and any revision thereto, including letters of map amendment or revision, are adopted by reference and declared to be a part of this article. The “areas of special flood hazard” also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This included detailed flood information generated as a requirement of Section 10-49(4).

In addition, upon annexation to the City of Forsyth the areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Hazard Boundary Map or Flood Insurance Study for Unincorporated Monroe County, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this article.
(Ord. of 8-2-94, § 2)

Sec. 10-25. Interpretation.

In the interpretation and application of this article all provisions shall be:

- (1) Considered as minimum requirements.

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- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.
(Ord. of 8-2-94, § 17)

Sec. 10-26. Permit required.

A development permit shall be required within the areas of special flood hazard or other floodprone areas prior to the commencement of any development activities. No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.

(Ord. of 8-2-94, § 3)

Cross reference—Development defined, § 10-2-3.

Sec. 10-27. Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. of 8-2-94, § 16)

Sec. 10-28. Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes given the flood information available. This article shall not create liability on the part of the city or by any officer or employee of the city for any flood damages that result from reliance on this article or any administrative decision lawfully made under this article.

(Ord. of 8-2-94, § 18)

Secs. 10-29—10-35. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 10-36. Floodplain map interpretation and updating.

- (a) Where there appears to be a conflict between the mapped boundary of the area of special flood hazard and actual field conditions, the local administrator shall make the necessary interpretation utilizing the most accurate topographic mapping or survey information available. Where base flood elevations are available, they shall be used to delineate the boundary of the floodplain. This determination is for regulatory purposes only, and may result in either the exclusion or inclusion of lands within the area of special flood hazard.

[NOTE: Property may not be excluded from the area of special flood hazard as a result of filling, unless a Letter of Map Revision has been issued by FEMA.]

- (b) Where the local administrator has determined that all or a portion of a property is located outside of the area of special flood hazard, the applicant shall be advised of the need to obtain a letter of

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map amendment or revision from the FEMA Region IV office and shall be given an application packet utilizing forms provided by FEMA. [NOTE: While the property may be exempt from the requirements of this article, flood insurance purchase will remain mandatory until FEMA issues a letter of map amendment or revision.]

- (c) The local administrator shall submit any newly-available flood information to the FEMA Region IV Office within six (6) months of receiving it. As a condition of project approval, the local administrator shall require an applicant to submit detailed base flood information developed pursuant to Section 10-49(4) of this article to the FEMA Region IV Office for a conditional letter of map revision utilizing forms provided by FEMA. The applicant shall then be required to submit as-built certifications to obtain a final letter of map revision.

- (d) (Ord. of 8-2-94, § 13)

Sec. 10-37. Permit application.

Application for a development permit shall be made to the City of Forsyth referred to in this article as the "local administrator," on forms furnished for that purpose, prior to any development activities, and may include, but not be limited to, the plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, proposed lowest floor elevation, earthen fill, storage of materials or equipment, drainage facilities; and description of the extent to which any watercourse will be altered or relocated as result of proposed development. The development permit form shall include the following flood hazard information: map panel number, flood zone, established base flood elevation (if available) or historic flood level, and minimum lowest floor elevation, referencing either height above natural grade or an established base flood elevation or historic flood level.

(Ord. of 8-2-94, § 4)

Sec. 10-38. Permit procedures.

The local administrator shall be responsible for administration and enforcement of this article, and shall:

- (1) Require development permits within the "area of special flood hazard," and shall review each permit application to determine if the proposed development will be reasonably safe from flooding, and to assure that the requirements of this article have been satisfied.
- (2) Advise the permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.
- (3) If available, obtain, review, and utilize any reliable base flood elevation or historic flood level information available from a federal, state or other source, in order to administer this article. Base flood elevation information must be derived by standard engineering practices.
- (4) Obtain from the permittee an elevation certificate, prepared by a state-licensed surveyor or engineer providing the actual elevation of the lowest floor (including basement) of all new or substantially improved buildings, in relation to both mean sea level and to highest adjacent natural

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grade. This shall occur at the time the lowest floor is established and shall be a condition for allowing further construction and for granting a certificate of occupancy or completion. For slab-on-grade foundations, the floor elevation shall be determined after the slab is poured and before wall construction commences. For wood-frame floor systems, the floor elevation shall be determined when the subflooring is in place, prior to any wall framing.

[NOTE: In unnumbered A Zones, when flood elevations do not exist, the local administrator may measure the distance from floor level to highest adjacent natural grade and complete the elevation certificate.

- (5) Maintain all records pertaining to the provisions of this article. Such records shall be filed by legal description in the office of the local administrator and shall be open for public inspection.
(Ord. of 8-2-94, § 5)

Sec. 10-39. Watercourse alterations.

The local administrator shall notify adjacent communities, the state National Flood Insurance Program Coordinating Office, Monroe County, and the regional planning agency, water management district or flood control district as applicable, prior to permitting any alteration or relocation of a watercourse. A copy of the notice, the construction plans, the engineering hydraulic analysis, and the list of agencies contacted shall be submitted to the FEMA Region IV office at the time the permit is issued. The city shall assure that the flood-carrying capacity of said watercourse is not diminished by the proposed alteration or relocation.

(Ord. of 8-2-94, § 12)

Sec. 10-40. Variances.

Variances to any of the provisions of this article shall be heard by the [variance board] pursuant to standard due process procedures. This board may also hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this article. Written findings shall be made addressing each of the relevant criteria and shall be mailed to the FEMA Region IV Office. Since the purpose of this article is to reduce future flood damages to lives and property, approval of variances is limited by the following:

- (1) Variances may only be granted for the following situations:
- a. Substantial improvements to historic buildings;
 - b. Functionally dependent water-related uses;
 - c. Physical hardships pertaining to the topography, soils, geology, or configuration of a lot.
- (2) Variances for historic buildings shall be subject to the following determinations:
- a. Submittal of documentation from the State Historic Preservation Office, or federally-certified local historic preservation review board, that:

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1. The structure is “historic” as defined in this article;
 2. The proposed improvements will not preclude or reverse the listing or eligibility of the structure to be “historic;” and
 3. The proposed improvements are in keeping with the historic character and integrity of the building and neighborhood.
- b. The variance is the minimum necessary to preserve the historic character and design of the structure; and
 - c. Every effort has been made to reduce future flood damage without impairing the historic character and design.
- (3) Variances for other than historic buildings shall be issued only upon:
- a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - c. A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - d. A determination that the variance is the minimum necessary to afford relief; and
 - e. A determination that the project design includes all possible means for otherwise reducing future flood damages.
- (4) Variances shall not be issued to “correct” violations; after-the-fact.
- (5) Variances to reduce the floor elevation for new construction below the base flood elevation are eligible only on sites as described in Section 10-50.
- (6) Conditions to mitigate adverse impacts of the variance may be placed upon the granting of any variance.
- (7) Any applicant to whom a variance is granted shall sign a written acknowledgement specifying the difference between the base flood elevation and the elevation to which the building is to be built or substantially improved and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (8) The variance findings and conditions, together with the signed acknowledgement form shall be recorded in the county deed records, attached to a legal description of the affected property.

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- (9) The local administrator shall maintain the records of all appeal actions and shall report any variances to the FEMA Region IV Office.
(Ord. of 8-2-94, § 15)

Secs. 10-41—10-45. Reserved.

DIVISION 3. STANDARDS FOR FLOOD HAZARD REDUCTION

Sec. 10-46. Building standards when flood elevations exist.

If base flood elevation information is available, or if historic flood records are higher at a particular site than three (3) feet above highest adjacent grade, the following standards shall apply to reduce future flood damages. As used in this article, the “reference elevation” is above the base flood elevation or historic flood level.

- (1) The lowest floor of all new construction and substantial improvements shall be elevated to or above the reference elevation, excepting that an attached garage is not required to be elevated above grade.
- (2) All new construction or substantial improvements shall be:
 - a. Designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure during a flood.
 - b. Constructed with materials and utility equipment resistant to flood damage for that portion of the structure below the reference elevation; and
 - c. Located and constructed by methods and practices that minimize flood damage.
- (3) Manufactured homes, whether new or replacement, shall be installed in conformance with all provisions of this section. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable building code requirements for resisting wind forces. The minimum elevation requirement is one of the following, as applicable:
 - a. The bottom of the chassis shall be elevated to or above the reference elevation; or
 - b. If a manufactured home is located in a portion of a manufactured home park or subdivision which predates the date of this article or the original flood insurance rate map, whichever is earlier, it may instead be elevated such that the bottom of the chassis is at least three (3) feet above average adjacent grade, supported by reinforced piers or other foundation systems of equivalent strength; or
 - c. If a manufactured home has been substantially damaged by flood, when it is repaired or replaced, the chassis must be elevated to or above the reference elevation, regardless of location.

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- (4) Electrical panels, switches, and outlets; heating, ventilation, and air conditioning equipment; plumbing fixtures (including bathrooms), hot water heaters, food freezers and refrigerators, laundry equipment, and other service facilities shall be elevated to or above the reference elevation or shall be protected to the same elevation to prevent water from entering the components during conditions of flooding.
- (5) Areas enclosed by solid walls below the elevated floor shall be provided with openings to allow the area to flood so as to relieve hydrostatic pressure that might damage the walls and/or foundation system. A minimum of two (2) openings shall be provided, one each in at least two (2) exterior walls. The bottom of the openings shall not be higher than one (1) foot above lowest adjacent grade. At least one (1) square inch of opening shall be provided for each square foot of enclosed area below the elevated floor. The openings may be covered by screens and/or louvers that will open automatically to allow entry and exit of floodwaters. Openings shall be provided in any interior partitions to allow all of the enclosed area to flood.
- (6) Use of the area below the reference elevation shall be limited to parking, building access, and limited storage incidental to the use of the structure. Laundries, bathrooms, family rooms, bedrooms, offices, and other living areas are not allowed. Any area enclosed by solid walls may not be heated or air conditioned. Interior partitions shall be the minimum necessary to provide security and separation from the parking area. Open areas may be screened or latticed.
- (7) Only flood resistant materials shall be used to finish any enclosed area below the reference elevation. "Finish" means doors, windows, construction materials, wall surfaces, and the floor. Electrical switches and outlets shall be the minimum number necessary for safety and shall be connected to a Ground-Fault Interrupt circuit, fully separate from the circuits servicing the elevated living areas. Back-flow valves shall be installed on floor drains to prevent sewage back-flow during a flood.
- (8) Nonresidential structures may be "flood-proofed" (see definitions) in lieu of elevating, to at least one (1) foot above the reference elevation but no more than four (4) feet above average adjacent grade. Such designs must be prepared by a registered professional engineer or architect, who must certify on FEMA Form 65-12 ("Floodproofing Certificate") the height to which a structure has been floodproofed and that the floodproofing has been designed and constructed in compliance with this article.

(Ord. of 8-2-94, § 6)

Sec. 10-47. Building standards for areas without flood elevations.

The following provisions shall apply to new construction or substantial improvement of buildings and structures so as to reduce future flood damage:

- (1) All new construction and substantial improvements shall be:
 - a. Elevated such that the lowest floor is at least three (3) feet above highest adjacent grade, excepting that an attached garage is not required to be elevated above grade;

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- b. Designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure during a flood;
 - c. Constructed with materials and utility equipment resistant to flood damage for that portion of the structure less than three (3) feet above highest adjacent grade; and
 - d. Located and constructed by methods and practices that minimize flood damage.
- (2) Manufactured homes shall have the bottom of the chassis elevated at least three (3) feet above highest adjacent grade and shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable building code requirements for resisting wind forces.
- (3) Electrical panels, switches, and outlets; heating, ventilation, and air conditioning equipment (including duct work); plumbing fixtures (including bathrooms), hot water heaters, food freezers and refrigerators, laundry equipment, and other service facilities shall be elevated at least three (3) feet above highest adjacent grade or shall be protected to the same elevation to prevent water from entering the components during conditions of flooding.
(Ord. of 8-2-94, § 7)

Sec. 10-48. Additional building standards.

- (a) Any addition, alteration, repair, reconstruction or improvement to a building which is in compliance with the provisions of this article, shall meet the requirements of “new construction.”
- (b) Accessory structures. Structures that represent minimal investments, are not used for human habitation, and that are subordinate to and accessory to the primary structure or use on the property (eg. storage sheds, detached garages, gazebos, and barns) need not meet the lowest floor elevation requirement of Sections 10-46(1) and 10-47(1), provided the other standards of Sections 6 or 7 are met. However, the applicant must sign a statement acknowledging that flood insurance rates will be significantly higher for structures that are not elevated in accordance with Sections 10-46(1) and 10-47(1). This statement shall be filed with the development permit.
- (c) Recreational vehicles. A recreational vehicle must either be fully licensed and ready for highway use and remain on the site for fewer than one hundred eighty (180) consecutive days, or be installed as a manufactured home in accordance with Sections 10-46 and 10-47. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- (d) Historic buildings. Historic buildings, as defined in this section, may be exempt from the elevation and other standards of this section, subject to approval of a variance pursuant to Section 10-40(2).
(Ord. of 8-2-94, § 8)

Sec. 10-49. Standards for subdivision proposals and other large developments.

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Proposals for subdivisions and other large developments, including shopping centers, industrial parks and complexes, public facilities and manufactured home parks and subdivisions, shall:

- (1) Be designed and located so as to minimize future flood damages both on-site and on lands upstream and downstream of the site;
- (2) Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damages;
- (3) Have adequate drainage provided to reduce exposure to flood hazards.
- (4) Have base flood elevation data developed in accordance with standard engineering practice, when the development is greater in size than fifty (50) lots or five (5) acres. Such data shall be provided by the local administrator to the FEMA Region IV Office within six (6) months, or the applicant shall submit the data to said office for a letter of map revision.
- (5) Have the base flood boundary and the base flood elevation for the building site on each lot clearly marked on all recorded subdivision plats and approved site development plans.
(Ord. of 8-2-94, § 10)

Sec. 10-50. Standards for water and sewer systems.

In "areas of special flood hazard" the following provisions are required for the installation or reconstruction of water and sewer systems:

- (1) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the system into floodwaters.
- (3) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. Back-flow valves are required.
(Ord. of 8-2-94, § 14)

Sec. 10-51. Setbacks from streams and lakes.

- (a) No encroachments, including fill material or structures, shall be located within a distance of the stream bank equal to two (2) times the width of the stream at the top of bank or twenty (20) feet each side from top of bank, whichever is greater. Buildings must be set back at least twenty (20) feet from the normal highwater shoreline of a lake.
- (b) Buildings shall not be permitted partially or wholly over water.
- (c) If a "floodway" has been designated in conjunction with base flood elevation data for a stream, no encroachment shall be allowed in the floodway unless a licensed professional engineer has scientifically evaluated the potential effects of the encroachment and has determined that it will

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cause no increase (0.0000 ft.) in the base flood elevation. Prior to issuance of a development permit, a “no-rise” certification containing relevant back-up data must be signed and sealed by said engineer and accepted by the local administrator. This certification must be filed with the development permit.

(Ord. of 8-2-94, § 9)

Sec. 10-52. Bridge and highway improvements.

- (a) If no base flood elevations exist, the agency proposing the bridge or highway improvement within an area of special flood hazard must generate base flood elevations utilizing standard engineering practice. The bridge or highway improvement must be designed to create no more than a one-foot rise in the base flood elevations. The base flood elevation information and the impact of the bridge or highway improvement on the base flood elevations must be provided to the local administrator and to the FEMA Region IV office.
- (b) If base flood elevations exist, the bridge or highway improvement must be designed to create no more than a one-foot rise in base flood elevations. The impact of the encroachment must be determined and provided to the local administrator and the FEMA Region IV office.
- (c) If a “floodway” has been designated, the bridge or highway improvement must be designed and certified in accordance with Section 9-15(c).
(Ord. of 8-2-94, § 11)

Secs. 10-53—10-60. Reserved.

ARTICLE III. SOIL EROSION AND SEDIMENTATION CONTROL*

Sec. 10-61. Title.

This article will be known as the “City of Forsyth Soil Erosion and Sedimentation Control Ordinance.”
(Ord. of 9-5-95, § 1)

Sec. 10-62. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article, unless otherwise specifically stated:

Best management practices (BMPs): A collection of structural measures and vegetative practices which, when properly designed, installed, and maintained, will provide effective erosion and sedimentation control for all rainfall events up to and including a twenty-five year, twenty-four hour rainfall event.

Board: The Board of Natural Resources.

Buffer: The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

Commission: The state soil and water conservation commission.

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Cut: A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as excavation.

Department: The department of natural resources.

Director: The director of the environmental protection division of the department of natural resources.

District: The Towaliga Soil and Water Conservation District.

Division: The Environmental Protection Division of the Department of Natural Resources.

Drainage structure: A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control, or flood control purposes.

Erosion: The process by which land surface is worn away by the action of wind, water, ice or gravity.

Erosion and sedimentation control plan: A plan for the control of soil erosion and sedimentation resulting from a land-disturbing activity. Also known as the “plan.”

Ground elevation: The original elevation of the ground surface prior to cutting or filling.

Fill: A portion of land surface to which soil or other solid material has been added; the depth above the original ground.

Finished grade: The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

Grading: Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

Issuing authority: The governing authority of any county or municipality which has been certified by the director of the Environmental Protection Division of the Department of Natural Resources as an issuing authority, pursuant to the Erosion and Sedimentation Act of 1975, as amended, or the division in those instances where an application for a permit is submitted to the division.

Land-disturbing activity: Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land, but not including agricultural practices as described in Section 10-63(a)(5).

***Editor's note**—An ordinance adopted Sept. 5, 1995, repealed former Ch. 10, Erosion and Sediment Control, §§ 10-1—10-11, 10-26—10-32, in its entirety, and enacted new provisions §§ 1—9, which pertained to similar subject matter. Such provisions have been codified by the editor as Art. III, §§ 10-61—10-69, for purposes of classification. Prior to repeal, former Ch. 10 was derived from an ordinance adopted Mar. 15, 1977, §§ 1—9.

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Metropolitan River Protection Act (MRPA): A state law referenced as OCGA 12-5-440 et seq., which addresses environmental and development matters in certain metropolitan river corridors and their drainage basins.

Natural ground surface: The ground surface in its original state before any grading, excavation or filling.

Nephelometric turbidity units (NTU): Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.

Permit: The authorization necessary to conduct a land-disturbing activity under the provisions of this article.

Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this state, any interstate body or any other legal entity.

Project: The entire proposed development project regardless of the size of the area of land to be disturbed.

Roadway drainage structure: A device such as a bridge, culvert, or ditch, composed of a virtually nonerrodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one (1) or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

Sediment: Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.

Sedimentation: The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

Soil and water conservation district approved plan: An erosion and sedimentation control plan approved in writing by the Towaliga Soil and Water Conservation District.

Stabilization: The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

State waters: Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

Structural erosion and sedimentation control measures: Measures for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive

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sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.

Trout streams: All streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, OCGA 12-5-20 et seq. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown, or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

Vegetative erosion and sedimentation control measures: Measures for the stabilization of erodible or sediment-producing areas by covering the soil with:

- (1) Permanent seeding, sprigging or planting, producing long-term vegetative cover; or
- (2) Temporary seeding, producing short-term vegetative cover; or
- (3) Sodding, covering areas with a turf of perennial sod-forming grass.

Such measures can be found in the publication, "Manual for Erosion and Sedimentation Control in Georgia."

Watercourse: Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Wetlands: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(Ord. of 9-5-95; § 2; Ord. of 5-15-01, § 1)

Sec. 10-63. Exemptions.

- (a) This article shall apply to any land-disturbing activity undertaken by any person on any land except for the following:
 - (1) Surface mining, as same is defined in OCGA 12-4-72;
 - (2) Granite quarrying and land clearing for such quarrying;
 - (3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, and other related activities which result in minor soil erosion;

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- (4) The construction of single-family residences, when such are constructed by or under contract with the owner for his or her own occupancy, or the construction of single-family residences not a part of a platted subdivision, a planned community, or an association of other residential lots consisting of more than two (2) lots and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in Section 10-64. For single-family residence construction covered by the provisions of this subsection, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5, of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be construed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least fifty (50) horizontal feet, but the director may grant variances to no less than twenty-five (25) feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least twenty five (25) horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of Section 10-64 and the buffer zones provided by this section shall be enforced by the issuing authority;
- (5) Agricultural operations as defined in OCGA 1-3-3 to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; forestry land management practices, including harvesting and farm buildings and farm ponds;
- (6) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;
- (7) Any project involving one and one-tenth (1.1) acres or less; provided, however, that this exemption shall not apply to any land-disturbing activity within two hundred (200) feet of the bank of any state waters, and for purposes of this paragraph, "state waters" excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves one and one-tenth (1.1) acres or less, which involves land-disturbing activity, and which is within two hundred (200) feet of any such excluded channel or drainageway, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the issuing authority from regulating any such project which is not specifically exempted by subsections (1), (2), (3), (4), (5), (6), (8), (9) or (10) of this section;
- (8) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the Georgia Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that such projects shall conform to the minimum requirements set forth in Section 10-64. Provided further that construction or maintenance projects of Department of Transportation or State Tollway Authority which disturb five (5) or more contiguous acres of land shall be subject to provisions of [OCGA] Code Section 12-7-7.1;

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- (9) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, provided that any such land-disturbing activity shall conform to the minimum requirements set forth in Section 10-64(b) and (c);
- (10) Forestry, land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraph (15) and (16) of Section 10-64(c) of this article, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices.
- (b) Where this section requires compliance with the minimum requirements set forth in Section 10-64(b) and (c), issuing authorities shall enforce compliance with the minimum requirements as if a permit had been issued and violations shall be subject to the same penalties as violations by permit holders.
- (Ord. of 9-5-95, § 3; Ord. of 5-15-01, § 2)

Sec. 10-64. Minimum requirements for erosion and sedimentation control using best management practices.

- (a) General provisions. Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities which are not excluded by this article shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosion and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of Section 10-64(b) and (c) of this article. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity.
- (b) Minimum requirements/BMPs.
- (1) Best management practices as set forth in this subsection and subsection (c) shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to an action by the director or to any other allegation of noncompliance with item (2) of this subsection or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to subsection (f) of OCGA Section 12-5-30. As used in this subsection, the terms "proper design" and "properly designed" mean designed to control soil erosion and sedimentation for all rainfall events up to and including a twenty-five year, twenty-four-hour rainfall event.
- (2) A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority or by the division or of any general permit for construction activities issued by the division pursuant to subsection (f) of OCGA

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Section 12-5-30 for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director.

- (3) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority or by the division or of any general permit for construction activities issued by the division pursuant to subsection (f) OCGA Section 12-5-30 for each day on which such failure occurs.
 - (4) The director may require, in accordance with regulations adopted by the board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.
- (c) The rules and regulations, ordinances, or resolutions adopted pursuant to this article for the purpose of governing land-disturbing activities shall require, as a minimum, best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the "Manual for Erosion and Sediment Control in Georgia" published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
- (1) Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
 - (2) Cut-fill operations must be kept to a minimum;
 - (3) Development plans must conform to topography and soil type so as to create the lowest practical erosion potential;
 - (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
 - (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum.
 - (6) Disturbed soil shall be stabilized as quickly as practicable;
 - (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
 - (8) Permanent vegetation and structural erosion control measures shall be installed as soon as practicable;
 - (9) To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this subsection, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of OCGA Section 12-7-1 et seq.;

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- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of fills;
- (11) Cuts and fills may not endanger adjoining property;
- (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
- (13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
- (14) Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in subsection (b)(2) of this section;
- (15) Except as provided in paragraph (16) of this subsection, there is established a twenty-five foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to OCGA [Section] 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; provided, however, the buffers of at least twenty-five (25) feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the Director as provided in this paragraph. The following requirements shall apply to any such buffer:

No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and

- (16) There is established a fifty-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams: pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of twenty-five (25) gallons per minute or less shall have a twenty-five foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board, so long as any

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such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The director may grant a variance from such buffer to allow land-disturbing activity; provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:

No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetation cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.

- (d) Nothing contained in this chapter shall prevent an issuing authority from adopting rules and regulations, ordinances, or resolutions which contain requirements that exceed the minimum requirements in subsections (b) and (c) of this section.
- (e) The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.
(Ord. of 9-5-95, § 4; Ord. of 5-15-01, § 3)

Sec. 10-65. Application/permit process.

- (a) *General.* The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the issuing authority that affect the tract to be developed and the area surrounding it. They shall review the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage prevention ordinance, this article, and other ordinances which regulate the development of land within the jurisdictional boundaries of the issuing authority. However, the property owner is the only party that can obtain a permit.
- (b) *Application requirements.*
 - (1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the City of Forsyth without first obtaining a permit from the building official of the City of Forsyth to perform such activity.
 - (2) The application for a permit shall be submitted to the building official of the City of Forsyth and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in subsection (c) of this section. Soil erosion and sedimentation control plans shall conform to the provisions of Section 10-64(b) and (c). Applications for a permit will not be accepted unless accompanied by three (3) copies of the applicant's soil erosion and sedimentation control plans.

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- (3) A fee, in an amount to be set by the mayor and council of the City of Forsyth from time to time by resolution shall be charged for each acre or fraction thereof in the project area.
- (4) Immediately upon receipt of an application and plan for a permit, the issuing authority shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. The results of the district review shall be forwarded to the issuing authority. No permit will be issued unless the plan has been approved by the district, and any variances required by Section 10-64(c)(15) and (16) and bonding, if required as per subsection 10-65 (b)(5)b., have been obtained. Such review will not be required if the issuing authority and the district have entered into an agreement which allows the issuing authority to conduct such review and approval of the plan without referring the application and plan to the district.
 - a. If a permit applicant has had two (2) or more violations of previous permits, this ordinance section, or the Erosion and Sedimentation Act, as amended within three (3) years prior to the date of filing of the application under consideration, the issuing authority may deny the permit application.
 - b. The issuing authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, three thousand dollars (\$3,000.00) per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this article or with the conditions of the permit after issuance, the issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the issuing authority with respect to alleged permit violations.

(c) *Plan requirements.*

- (1) Plans must be prepared to meet the minimum requirements as contained in Section 10-64(b) and (c). Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the Manual for Erosion and Sediment Control in Georgia, published by the state soil and water conservation commission as a guide; or through the use of alternative design criteria which conform to sound conservation and engineering practices. The manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this article. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws.
- (2) Data required for site plan.
 - a. Narrative or notes, and other information: Notes or narrative to be located on the site plan in general notes or in erosion and sediment control notes.
 - b. Description of existing land use at project site and description of proposed project.

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- c. Name, address, and phone number of the property owner.
- d. Name and phone number of twenty-four-hour local contact who is responsible for erosion and sedimentation controls.
- e. Size of project, or phase under construction, in acres.
- f. Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that “the installation of erosion and sedimentation control measures and practices shall occur prior to or concurrent with land-disturbing activities.”
- g. Stormwater and sedimentation management systems storage capacity, hydrologic study, and calculations, including off-site drainage areas.
- h. Vegetative plan for all temporary and permanent vegetative practices, including species, planting dates, and seeding, fertilizer, lime, and mulching rates. The vegetative plan should show options for year-round seeding.
- i. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.
- j. Maintenance statement.

“Erosion and sedimentation control measures will be maintained at all times. Additional erosion and sedimentation control measures and practices will be installed if deemed necessary by onsite inspection.”

- (3) Maps, drawings, and supportive computations shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying, or erosion and sedimentation control. The certified plans shall contain:

- a. Graphic scale and north point or arrow indicating magnetic north.
- b. Vicinity maps showing location of project and existing streets.
- c. Boundary line survey.
- d. Delineation of disturbed areas within project boundary.
- e. Existing and planned contours, with contour lines drawn with an interval in accordance with the following:

<i>Map Scale</i>	<i>Ground Slope</i>	<i>Contour Interval (in feet)</i>
1 inch = 100 feet or larger scale	Flat 0—2%	0.5 or 1
	Rolling 2—8%	1 or 2
	Steep 8% +	2, 5, or 10

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- f. Adjacent areas and features areas such as streams, lakes, residential areas, etc., which might be affected should be indicated on the plan.
 - g. Proposed structures or additions to existing structures and paved areas.
 - h. Delineate the twenty-five-foot horizontal buffer adjacent to state waters and the specified width in MRPA areas.
 - i. Delineate the specified horizontal buffer along designated trout streams, where applicable.
 - j. Location of erosion and sedimentation control measures and practices using coding symbols from the Manual for Erosion and Sediment Control in Georgia, Chapter 6.
- (4) Maintenance of all soil erosion and sedimentation control practices, whether temporary or permanent, shall be at all times the responsibility of the property owner.
- (d) *Permits.*
- (1) Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the issuing authority of a completed application, providing variances and bonding are obtained, where necessary.
 - (2) No permit shall be issued by the issuing authority unless the erosion and sedimentation control plan has been approved by the district and the issuing authority has affirmatively determined that the plan is in compliance with this article, any variances required by Section 10-64(c)(15) and (16) are obtained, bonding requirements, if necessary, as per subsection (b)(5)b of this section are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the issuing authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
 - (3) If the tract is to be developed in phases, then a separate permit shall be required for each phase.
 - (4) The permit may be suspended, revoked, or modified by the issuing authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
 - (5) No permit shall be issued unless the applicant provides a statement by the tax commissioner of Monroe County and the city clerk or other tax collector of the city certifying that all ad valorem taxes levied against the property and due and owing have been paid.
(Ord. of 9-5-95, § 5; Ord. of 5-15-01, § 4)

Sec. 10-66. Inspection and enforcement.

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- (a) The office of the building official of the city will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined in this article has failed to comply with the approved plan, with permit conditions, or with the provisions of this article, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article.
- (b) The office of the building official of the city shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- (c) No person shall refuse entry or access to any authorized representative or agent of the issuing authority, the commission, the district, or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- (d) The districts or the commission or both shall periodically review the actions of counties and municipalities which have been certified as issuing authorities pursuant to OCGA 12-7-8 (a). The district or the commission or both may provide technical assistance to any municipality for the purpose of improving the effectiveness of the municipality's erosion and sedimentation control program. The district or the commission shall notify the division and request investigation by the division if any deficient or ineffective local program is found.
- (e) The division may periodically review the actions of municipalities which have been certified as issuing authorities pursuant to OCGA Section 12-7-8 (a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinances and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of the municipality certified pursuant to OCGA 12-7-8 (a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to OCGA 12-7-7 (d), the division shall notify the governing authority of the municipality in writing. The governing authority of any municipality so notified shall have thirty (30) days within which to take the necessary corrective action to retain certification as an issuing authority. If the county or municipality does not take necessary correction action within thirty (30) days after notification by the division, the division may revoke the certification of the municipality as an issuing authority.
(Ord. of 9-5-95, § 6)

Sec. 10-67. Penalties and incentives.

- (a) *Failure to obtain a permit for land-disturbing activity.* If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this ordinance without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other

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authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the Issuing Authority.

- (b) *Stop-work orders.* For the first and second violations of the provisions of this article, the issuing authority or its agent shall issue a written warning to the violator. The violator shall have five (5) days to correct the violation. If the violation is not corrected within five (5) days, the issuing authority shall issue a stop work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that if the violation presents an imminent threat to public health or the waters of the state, the issuing authority shall issue an immediate stop work order in lieu of a warning. For a third and each subsequent violation, the issuing authority shall issue an immediate stop work order. All stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
- (c) *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of Section 10-65(b)(5)b. The issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.
- (d) *Civil penalties.*
 - (1) Except as provided in subparagraph (2) of this subsection, any person who violates any provision of this article, the rules and regulations adopted pursuant hereto, or any permit condition or limitation established pursuant to this article or who negligently or intentionally fails or refuses to comply with any final or emergency order of the issuing authority as provided in this article shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) per day. For the purpose of enforcing the provisions of this article, and notwithstanding any provision in the City Charter or other laws to the contrary, the municipal court of Forsyth shall be authorized to impose a penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each violation. Each day during which a violation or failure or refusal to comply continues shall be a separate violation.
 - (2) The following penalties shall apply to land-disturbing activities performed in violation of any provision of this article, any rules and regulations adopted pursuant hereto, or any permit condition or limitation established pursuant to this article:
 - a. The issuing authority shall assess and collect a minimum penalty of two hundred fifty dollars (\$250.00) per day for each violation involving the construction of a single-family dwelling by or under contract with the owner for his or her own occupancy; and
 - b. The issuing authority shall assess and collect a minimum penalty of one thousand dollars (\$1,000.00) per day for each violation involving land-disturbing activities other than as provided in subparagraph a. hereinabove.

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(Ord. of 9-5-95, § 7; Ord. of 5-15-01, § 5)

Sec. 10-68. Administrative appeal, judicial review.

- (a) *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the issuing authority upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the board of zoning appeals of the city within fifteen (15) days after receipt by the issuing authority of written notice of appeal.
- (b) *Judicial review.* Any person, aggrieved by a decision or order of the issuing authority, after exhausting his administrative remedies, shall have the right to appeal de novo to the superior court of Monroe County, Georgia.
(Ord. of 9-5-95, § 8)

Sec. 10-69. Liability.

- (a) Neither the approval of a plan under the provisions of this article, nor the compliance with provisions of this article shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the issuing authority or district for damage to any person or property.
- (b) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.
- (c) No provision of this article shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any waters of the State of Georgia as defined thereby.
(Ord. of 9-5-95, § 9(c); Ord. of 5-15-01, § 6)

Secs. 10-70—10-75. Reserved.

ARTICLE IV. WATERSHED PROTECTION

DIVISION 1. GENERALLY

Secs. 10-76—10-85. Reserved.

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DIVISION 2. TOBESOFKEE CREEK RESERVOIR*

Sec. 10-86. Title.

This division shall be known as the “City of Forsyth Tobesofkee Creek Watershed Reservoir Regulations.” (Ord. of 8-1-95, § 1)

Sec. 10-87. Definitions.

The following definitions shall apply with regard to the interpretation of this division:

City means the municipal corporation of Forsyth, Georgia, and its officers, agents, employees, representatives, and where applicable, its elected officials.

Owner means the legal land owner of property adjacent to the city’s Tobesofkee Watershed Reservoir property; as such owners existed as of the 6th day of May, 1986, and their successors upon any conveyance of the adjacent property in conformity with the provisions of this division. The term “owner,” when the context so allows or requires, may also mean those “closely related” to the owner, as to individuals meaning any person who is a parent, grandparent, child, grandchild, brother, sister, husband or wife, by blood or law; and as to a corporation or business entity, “closely related” will mean and include its officers and partners. And “owner” shall also include, where the context allows or requires, a guest or invitee of an owner, but only in the presence of owner or one closely related as defined herein, and not in such numbers as to fall within the meaning of the term “general public.”

General public means all persons other than owner as defined herein.

Person means any person, individual, firm, partnership, corporation, or entity, including governmental entity (other than the City of Forsyth).

Watershed reservoir property means the land and the easements acquired by the city for the ownership, operations and maintenance of the water impoundment known as the City of Forsyth Tobesofkee Creek Reservoir and all structures thereon, and as accepted by the city by the resolution of the City of Forsyth of May 6, 1986, and any other acquisitions by the city, whether of fee simple or of essentials related to the ownership, operations, and maintenance of the Tobesofkee Creek Reservoir. (Ord. of 8-1-95, § 5)

Sec. 10-88. Recreational use restricted to adjacent property owners.

The Tobesofkee Creek Reservoir is and shall be used solely for raw water supply storage and intake, and there is and shall be no public access to the lake and recreational use will and is strictly restricted to property owners bordering the perimeter of the watershed property. (Ord. of 8-1-95, § 6)

***Editor’s note**—An ordinance adopted Aug. 1, 1995, enacted provisions pertaining to protection of water quality at the Tobesofkee Creek Reservoir. Such ordinance did not specify manner of codification; hence, inclusion of §§ 1, 5—12, as div. 2, §§ 10-86—10-94, has been at the discretion of the editor.

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Sec. 10-89. Prohibited acts at reservoir and on reservoir property.

Without in any way limiting the purpose and intent of Section 10-88, the following is and shall be expressly prohibited both to the general public and to owners of adjacent property at the reservoir and on reservoir property:

- (1) The possession or consumption of alcohol, drugs or any controlled substances;
 - (2) Wading, swimming or bathing;
 - (3) The possession or use of firearms, ammunition, archery equipment including bows and arrows, loaded projectile firing devices or explosives, of any kind;
 - (4) The operations or use of any audio or noise producing devices in such a manner as to unreasonably annoy or endanger other individuals;
 - (5) Pets;
 - (6) Soliciting;
 - (7) Glass containers of any kind;
 - (8) Littering or dumping;
 - (9) Boats with gasoline motors;
 - (10) Boats in excess of sixteen (16) feet;
 - (11) Sailboats and inner tubes;
 - (12) Cleaning of boats with soaps or solvents;
 - (13) Any boats that are not properly registered by the State of Georgia or that do not carry appropriate flotation devices;
 - (14) Any unlicensed vehicles or unlicensed persons operating licensed vehicles;
 - (15) Trail bikes, minibikes, go-carts or motorcycles that are not equipped and licensed for street use;
 - (16) The discharge of any pollutant;
 - (17) Destruction, injury, defacement or removal of any property of the city;
 - (18) Withdrawal of water from the watershed.
- (Ord. of 8-1-95, § 7)

Sec. 10-90. Activities permitted only to adjacent owners.

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The following is expressly prohibited at the reservoir and reservoir property, except to adjacent owners:
Fishing from roads, banks, dams or boats.

(Ord. of 8-1-95, § 9)

Sec. 10-91. User identification.

Persons using the reservoir facility will be required to show proper identification upon the request of any agent or representative of the city, and any agent or representative of the department of natural resources, and any law enforcement officer.

(Ord. of 8-1-95, § 9)

Sec. 10-92. Permit required for access to reservoir.

- (a) The Tobesofkee Creek Reservoir may be used only by those adjacent owners who have secured the proper permits from the City of Forsyth, using the forms provided by the city and in substantially the form attached hereto and incorporated herein by reference.* Only adjacent owners as defined in this division, including those “closely related”, or guests, or the successors of owners upon any conveyance of the adjacent property, and only when granted by appropriate affirmative vote of the mayor and council, shall be allowed permits for access to the reservoir.
- (b) In making decisions as to the grant or denial of any access permit, the council shall consider the following:
 - (1) The adjacent owner must own a minimum of ten (10) acres, with a minimum common boundary with the reservoir property of at least five hundred (500) feet;
 - (2) Soil erosion and sedimentation controls must be assured, by a registered engineer, in writing, in accordance with state EPD standards;
 - (3) Septic tanks and absorption fields must meet all state standards, and all improvements, including wells and sewage/septic systems must be at least above five hundred ten (510) feet mean sea level and no closer to the reservoir property than three hundred (300) feet.
 - (4) Building density shall not be greater than one (1) principal dwelling unit per ten (10) acres. Only single-family units will be allowed.
 - (5) No commercial development shall be permitted, with the exception of a “home occupation” as defined in the city zoning code and if allowed by the city board of zoning appeals.
 - (6) A buffer (defined as meaning a natural or enhanced vegetated area with only limited minor land disturbances, such as trails and picnic areas) shall be maintained for a distance of one hundred fifty (150) feet from the reservoir boundary.

***Editor’s note**—The forms referred to in § 10-92 are not set out in this division, but are on file and available for inspection in the office of the city clerk.

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- (c) Access of any permitted person from adjacent property to the watershed shall be at such point as the adjacent property abuts the watershed property, or in reasonable proximity thereto, but shall not encroach upon any other adjacent owner without the express permission of such adjacent owner, nor shall any permitted owner have any rights or access to adjacent property not owned by the permitted owner as it abuts the reservoir.
- (d) The adjacent owners do not own any shoreline of the watershed, and under no circumstances are any docks, decks, boat moors, or any type of structure of any kind whatsoever to be allowed to encroach onto the watershed property or into the watershed reservoir.
(Ord. of 8-1-95, § 10)

Sec. 10-93. Hold harmless provisions.

The city shall be held harmless from any claims, costs, losses or damages which the adjacent owners may at any time have against the city arising out of or in any way connected with the use of reservoir facilities. The city is not an insurer of adjacent owners, or any other persons coming upon the watershed property of the city; and no users of the watershed property, whether adjacent owners with permits, or trespassers, shall have any rights or claims or causes of action against the city.
(Ord. of 8-1-95, § 11)

Sec. 10-94. Noncompliance; revocation of permit, fine, expulsion.

- (a) Any noncompliance by a permitted adjacent owner with any of the regulations set by this division, as stated herein or as may be amended from time to time, shall result in the city having the right to suspend, revoke, or otherwise limit any permits, after reasonable notice to such offender, and after the right of the offender, upon due notice, to appear before the council and explain any extenuating or mitigating circumstances.
- (b) Further, the city reserves the right to fine, and/or expel any persons, whether permitted or trespasser, for the violation of any rule or regulation of the city governing the watershed reservoir and the city shall not be prohibited or limited from seeking any other remedies as may be provided by law.
(Ord. of 8-1-95, § 12)

Secs. 10-95—10-120. Reserved.

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ARTICLE V. VEGETATION

DIVISION 1. GENERALLY

Secs. 10-121—10-130. Reserved.

DIVISION 2. TREES*

Sec. 10-131. Definitions.

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meanings given in this section. When not inconsistent with the context, words used in the singular include the plural; the word “shall” is always mandatory and not directory; and the masculine includes the feminine.

City and City of Forsyth, Georgia means that area within the corporate boundaries of the City of Forsyth, Georgia.

Park trees means trees, and all other woody vegetation in city parks having individual names and all other areas owned by the city or to which the public has free access as a park provided by the city.

Person means a public or private individual, group, company, firm, corporation, partnership, association, society, joint stock company, or any other combination of human beings whether legal or natural.

Street trees means trees, and all other woody vegetation on land lying between rights-of-way lines on either side of all city streets, avenues or ways within the city.

Tree board means citizens and residents of the city who shall be appointed by the mayor and city council to be responsible for implementation and maintenance of a tree preservation program.

Tree worthy of preservation means any tree which can reasonably be determined by the tree board to have lived no more than one-half (1/2) of its normal life, or which is unique by reason of size, age, or some other outstanding quality, such as uniqueness, rarity or status as landmark or species specimen.
(Ord. of 1-4-94, § 1)

Sec. 10-132. Public tree care.

The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the right-of-way lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The city tree board may remove or cause or order to be removed, any street or park tree which is in an unsafe condition or which by reason to its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.

***Editor's note**—An ordinance adopted Jan. 4, 1994, § 1, enacted provisions pertaining to trees, designated as Art. VII, §§ 2-151—2-166. Such provisions have been redesignated as div. 2, §§ 10-131—10-146, by the editor, for purposes of classification.

Cross reference—Unlawful cutting or trimming of trees, § 15-9.

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This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with Sections 10-138 through 10-143 of this division.

(Ord. of 1-4-94; § 1)

Sec. 10-133. Tree topping.

- (a) It shall be unlawful as a normal practice for any person, firm or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this division at the determination of the City tree board.
- (b) Cutting, killing or otherwise destroying trees by public service companies and natural gas companies performing normal construction and maintenance pursuant to applicable state or federal safety or construction laws and regulations is acceptable; provided, however, that the tree board shall review the procedures employed by such companies at least semi-annually to determine whether they meet the purpose of this division, and shall recommend to the mayor and city council such additional ordinances as the tree board deems necessary to bring the procedures of such companies into compliance with the purposes of this division.

(Ord. of 1-4-94, § 1)

Sec. 10-134. Pruning, corner clearance.

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light of any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign.

(Ord. of 1-4-94, § 1)

Sec. 10-135. Dead or diseased tree removal on private property.

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life, property or harbor insects or disease which constitute a potential threat to other trees within the city. The city will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the day of service of notice. In the event of failure of the owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal to the property owners.

(Ord. of 1-4-94, § 1)

Sec. 10-136. Arborists, license and bond.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating or removing street or park trees within the city without first applying for and procuring a license. The

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license fee shall be fifty dollars (\$50.00) annually in advance; provided, however, that no license shall be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of one hundred thousand dollars (\$100,000.00) for bodily injury and fifty thousand dollars (\$50,000.00 for property damage, indemnifying the city or any person injured or property damaged resulting from the pursuit of such endeavors as described in this division.

(Ord. of 1-4-94, § 1)

Sec. 10-137. Approval of site plans.

(a) Any commercial building permit application to the city must be accompanied by a site plan, which should exhibit all existing trees in public right-of-way. The plan should indicate whether public trees are to remain or to be removed. The applicant shall make every effort to avoid public trees and provide site plans designed accordingly. All commercial site plans shall include: A landscape area suitable for street tree planting, and exhibit street tree planting based on the following schedule:

<i>Frontal Length (in feet)</i>	<i>Trees Required</i>
Less than 50	1
More than 50	2 trees per [each] 50 feet of frontage

Existing trees may count toward the above schedule.

(b) If replacement trees are required by the tree board, they shall equal or exceed the number of existing trees removed. Replacement trees shall be two and one-half (2 ½) inches minimum caliper, nursery stock, balled and burlap or containerized for late spring, summer or early fall planting. Owner/developer shall guarantee the survival and healthy condition of all replacement trees for one (1) year from date of planting.

(Ord. of 1-4-94, § 1)

Sec. 10-138. New or replacement tree approval.

[The following listings are trees approved as new or replacement trees:]

<i>Small Trees</i> (Minimum 1 ½ " Caliper)	<i>Medium Trees</i> (Minimum 2" Caliper)	<i>Large Trees</i> (Minimum 2" Caliper)
Flowering Dogwood	Ash, Green	Scarlet Oak
Yoshino Cherry	American Hornbeam	Red Maple
Kwanzan Cherry	Chinese Parasol Tree	Gingko (Male only)
Crape Myrtle	Golden Rain Tree	Zelkova
Trident Maple	Washington Hawthorne	Pin Oak
Japanese Maple	Chinese Elm	White Oak
Saucer Magnolia	Bradford Pear	Sugar Maple
Crabapple	Honeylocust (thornless)	Southern Magnolia
Redbud	River Birch	Sycamore
		London Planetree

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Willow Oak
Southern Red Oak
Sawtooth Oak

NOTE: All trees shall conform to standards of the American Nurseryman's Association.
(Ord. of 1-4-94, § 1)

Sec. 10-139. Spacing.

The spacing of street trees will be in accordance with the three (3) species size classes listed in section 10-138, and no tree may be planted closer together than the following: Small trees—fifteen (15) feet; medium trees—twenty (20) feet; and large trees—forty (40) feet; except in special plantings designed or approved by a landscape architect .
(Ord. of 1-4-94, § 1)

Sec. 10-140. Distance from the curb and sidewalk.

The distance trees may be planted from the curbs or curblines and sidewalks will be in accordance with the three (3) species size classes listed in Section 10-138 and no tree may be planted closer to any curb or sidewalk than the following: Small trees—two (2) feet; medium trees—three (3) feet; and large trees—four (4) feet.
(Ord. of 1-4-94, § 1)

Sec. 10-141. Distance from street corners and fire hydrants.

No street tree shall be planted closer than thirty-five (35) feet to any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten (10) feet to any fire hydrant.
(Ord. of 1-4-94, § 1)

Sec. 10-142. Utilities.

No street trees other than those species listed as small trees in Section 10-138 may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.
(Ord. of 1-4-94, § 1)

Sec. 10-143. Tree protection during development.

During any building, renovating or razing operations, the builder shall erect and maintain suitable protective barriers around all trees specified to be maintained so as to prevent damage to said trees and shall not allow storage of equipment, materials, debris or fill to be placed in this area except as may be necessary for a reasonable time if no other storage or staging is available. All public trees unless specifically exempted by the tree board shall be protected from construction activity.
(Ord. of 1-4-94, § 1)

Sec. 10-144. Interference with city tree preservation/conservation.

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It shall be unlawful for any person to prevent, delay or interfere with the city, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees, or trees on private or public grounds, as authorized in this division.

(Ord. of 1-4-94, § 1)

Sec. 10-145. Review by mayor and city council.

The mayor and city council shall have the right to review the conduct, acts and decisions of the city tree board. Any person may appeal from any ruling or order of the city tree board to the mayor and council who may hear the matter and make a final decision.

(Ord. of 1-4-94, § 1)

Sec. 10-146. Penalty.

Any person violating any provision of this division shall be, upon conviction or plea of guilty, subject to a fine as allowed by the City Charter for each such violation plus the cost of replacing any tree cut down.

(Ord. of 1-4-94, § 1)