



City of Raleigh Planning Commission Text Change Committee Agenda

Agenda for **Tuesday, September 20, 2016 at 9 am.**

Location: Raleigh Municipal Building, 222 W. Hargett Street, City Council Chambers - Room 303, Raleigh, North Carolina. For information call 919-996-2626

These items will be discussed during the meeting:

TC-2-16

Exemptions from Active Stormwater Control Measures: Amends the UDO to amend those types of uses or sites that are exempted from active stormwater control measures. This item was last discussed by the Committee in June Of 2016. The Committee requested that staff meet with a stakeholder group to discuss the text change. Staff met with a stakeholder group on August 2, 2016. The revised ordinance is a product of that discussion, incorporating suggestions from the group.

The text change does two primary things: clarify the stormwater exemptions for small or existing lots, and adds impervious surface limitations, set by zoning district. The clarification to the exemptions is in response to the former text change TC-6-15, which did not include an exemption for recombined lots. The impervious surface limitations can be exceeded if the property owner can demonstrate there is no additional impact as a result of construction, or by installing a stormwater device.



Certified Recommendation

Raleigh Planning Commission

CR#

Case Information: TC-2-16 / Exemptions from Active Stormwater Control Measures

Comprehensive Plan Guidance

<p><i>Applicable Policy Statements</i></p>	<p>Policy EP 2.1 – Green Infrastructure Ensure protection of Raleigh’s unique and significant green infrastructure – its natural resources, landscapes, and ecological systems – through best practices management, stewardship and land use regulations.</p> <p>Policy EP 2.2 – Environmentally Sensitive Development Ensure Raleigh’s growth and land development practices are compatible with the City’s natural form, vegetation, topography, and water bodies and streams. This will decrease erosion, reduce stormwater run-off and flooding, improve water quality, protect wildlife habitat, and provide buffers and transitions between land uses. See Map EP-1: Greenprint for environmental resources.</p> <p>Policy EP 3.8 – Low Impact Development Promote the use of Low Impact Development (LID) techniques to mitigate the impact of stormwater runoff. This includes the use of green roofs, rain gardens, cisterns, rain barrels, and on-site wastewater reuse systems in urban and suburban landscapes.</p> <p>Policy EP 3.12 – Mitigating Stormwater Impacts Potential stormwater impacts from new development on adjoining properties should mimic pre-development conditions and control the rate of runoff so as to avoid erosion of stream banks, inundation of natural waterways and to allow the recharging of groundwater. The intent is to avoid environmental and economic damage to the adjacent properties and City infrastructure.</p> <p>Policy PU 5.1 – Sustainable Stormwater Management Reduce run-off velocity and improve water quality from existing and new development using sustainable infrastructure techniques that use soils and vegetation to capture, cleanse, and re-use stormwater runoff.</p> <p>Policy PU 5.4 – Discharge Control Methods Apply discharge control methods that control both peak and volume and that are economically, aesthetically, and environmentally acceptable as well as effective in stormwater management.</p>
<p><i>Action Items</i></p>	<p>Not applicable</p>

Summary of Text Change

<i>Summary</i>	Amends Sections 9.2.2.A. of the Part 10A Raleigh Unified Development Ordinance to amend those sites and uses that are exempted from the active stormwater control requirements of the code. This text change requires all new development or redevelopment to assess the impact of these developments on stormwater.
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Summary of Impacts

<i>Impacts Identified</i>	<p><u>Adoption of TC-2-16:</u></p> <ol style="list-style-type: none"> 1. The adoption of the text change would require all smaller infill developments and redevelopments to assess the impact of the stormwater generated by their site. These smaller projects would have impervious restrictions set based on their current zoning district. There are options that would allow development to exceed the set impervious limits by either studying the stormwater impacts of the project on downstream properties or controlling the volume of stormwater leaving the site during the 90th percentile storm. 2. The adoption of the text change would clarify language that was approved as part of TC-6-15. The language from TC-6-15 has generated various appeals to the Board of Adjustment that would be clarified with TC-2-16. <p><u>No Action:</u></p> <ol style="list-style-type: none"> 1. All small residential and commercial lots would be exempt from stormwater regulations and not assess the impacts of their sites on downstream property owners. 2. The language from TC-6-15 would continue to cause issues and appeals to the Board of Adjustment would continue to increase.
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Public Meetings

<i>Submitted</i>	<i>Committee</i>		<i>Planning Commission</i>	
3-8-16			3-8-16	

Attachments

1. Draft Ordinance

Planning Commission Recommendation

<i>Recommendation</i>	Approval
<i>Findings & Reasons</i>	<p>The City has traditionally exempted small lots from stormwater regulations depending on their size and recordation date. The Stormwater Management Advisory Commission (SMAC) was asked by City Council to study these exemptions and recommend any changes. This was based on citizen complaints about stormwater generated from smaller projects that were untreated and having an adverse impact downstream. The SMAC studied this issue for 2 years and crafted this text change. The text change is based on setting impervious limits for smaller developments based on current zoning districts. These limits were derived from long-used engineering standards for the calculation of runoff rates and volumes from residential properties (<i>Urban Hydrology for Small Watersheds, Technical Release 55 or TR-55</i>). The SMAC recognized that these impervious limits may need to be exceeded and in those cases the text change includes two options to exceed the impervious limits. The first option is to demonstrate no adverse impact to downstream properties through a flood study, and the second option is to control the volume of stormwater leaving the site for the 90th percentile storm. The volume control option is a major premise of Low Impact Development (LID) and this would be the first stormwater regulation in Raleigh based on LID. Also, with the approval of TC-6-15, inconsistencies were created that have generated appeals to the Board of Adjustment. This text change would correct these inconsistencies.</p>
<i>Motion and Vote</i>	Approval:

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the attached Staff Report.

Planning Director

Date

Planning Commission Chairperson

Date

Staff Coordinator:

Eric Hodge: eric.hodge@raleighnc.gov



Zoning Staff Report – TC-2-16

Exemptions from Active Stormwater Control Measures

Request

<i>Section Reference</i>	Part 10A §9.2.2.A Active Stormwater Control Measures - Exemptions
<i>Basic Information</i>	Amends the UDO to amend those types of uses or sites that are exempted from active stormwater control measures.
<i>PC Recommendation Deadline</i>	

Comprehensive Plan Guidance

<i>Applicable Policies</i>	Not applicable
<i>Action Items</i>	Not applicable

Contact Information

<i>Staff Coordinator</i>	Eric Hodge: eric.hodge@raleighnc.gov ; 919.996.2639
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History/Overview

This text change was initiated by the City Council, Stormwater Management Advisory Commission and City Staff to provide the potential for the treatment of stormwater from smaller residential and commercial infill development. It was also initiated to correct some inconsistencies in previously approved TC-6-15.

Purpose and Need

This text change would cause smaller infill developments to assess the effects and possibly treat stormwater leaving their property. It would help to protect downstream property owners from adverse of stormwater impacts of adjacent developments. It would also correct inconsistencies in previously approved TC-6-15.

Alternatives Considered

None

Scoping of Impacts

Potential adverse impacts of the proposed text change have been identified as follows:

Increase in housing costs associated with the costs of demonstrating and/or providing means of stormwater controls.

The adverse impacts of taking no action (retaining the existing regulations) have been identified as follows:

Small commercial and residential infill developments would not have to address any of the stormwater impacts associated with new impervious area. Also, the existing regulations are creating an increased number of appeals to the Board of Adjustment due to inconsistencies caused by TC-6-15.

Impacts Summary

Adoption of Proposed Text Change

The adoption of this text change would cause smaller infill developments to assess the effects and possibly treat stormwater leaving their property. It would help to protect downstream property owners from adverse of stormwater impacts of adjacent developments. It would also correct inconsistencies in previously approved TC-6-15.

No action

The status quo will be maintained and small commercial and residential infill developments would not have to address any of the stormwater impacts associated with new impervious area. Also, the existing regulations are creating an increased number of appeals to the Board of Adjustment due to inconsistencies caused by TC-6-15.

**ORDINANCE NO. 2016 --
TC-2-16**

AN ORDINANCE TO MODIFY THE EXEMPTIONS FROM ACTIVE STORMWATER CONTROL MEASURES IN THE CITY OF RALEIGH UNIFIED DEVELOPMENT ORDINANCE

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. Section 9.2.2.A of the Part 10A Raleigh Unified Development Ordinance, Active Stormwater Control Measures, is hereby amended by deleting it in its entirety and replacing it with the following underlined provisions:

Sec. 9.2.2. Active Stormwater Control Measures

A. Exemptions

Subject to the additional runoff controls required in Sec. 9.2.2 E 3 and the impervious surface limitations and other regulations of subsection A 4 below, the following are exempt from the active stormwater control measures required by section 9.2.2:

1. Grandfathered lots

a. Defined

Any lot which was either recorded prior to May 1, 2001 (the first application of the Stormwater Management Ordinance) or lawfully recorded later as part of a subdivision approved prior to May 1, 2001.

b. Use Standards

i. A grandfathered lot of any size, including grandfathered lots that are recombined with other grandfathered lots, used for any detached house used for single-unit living or any attached house used for two-unit living, including accessory uses.

ii. A grandfathered lot of one-half acre or less that has not been altered by recombination to be larger than one-half acre in size, used for any other lawful use requiring a plot plan or site plan.

2. Subdivided lots

a. Defined

A lot created by a subdivision approved after May 1, 2001.

b. Use Standard

i Any detached house used for single-unit living or any attached house used for two-unit living, including their accessory uses, situated on a subdivided lot that was part of a subdivision of one acre or less in aggregate size, including subdivided lots that are recombined with other similar subdivided lots.

ii Any other lawful use requiring a plot plan or site plan situated on a subdivided lot that was part of a subdivision of one-half acre or less in aggregate size.

3. Other exemptions

a. Land-disturbing activities, not otherwise exempted, that do not require a land-disturbing permit under Sec. 9.4.6 are exempted provided that, upon application of any impervious surfaces this exemption shall not apply.

b. Substitution of impervious surfaces when all the standards of Sec. 10.3.4. are met.

c. Substitution of impervious surfaces with approved pervious surfaces.

4. Impervious surfaces limitations and other regulations

a. Lots ~~exclusively used for any detached house used for single-unit living or any attached house used for two-unit living, including accessory uses, that are both located in any residential zoning district and~~ exempted by subsections (1) or (2) above shall be subject to Sec. 9.2.2. *et seq.* when the applicable maximum impervious surface area of the lot exceeds:

Zoning District Maximum Percentage of Impervious Surface Coverage

<u>R-1</u>	<u>20%</u>
<u>R-2</u>	<u>25%</u>
<u>R-4</u>	<u>38%</u>
<u>R-6</u>	<u>51%</u>
<u>R-10 and all other base zoning districts</u>	<u>65%</u>

Where the lot is part of a cluster unit development or townhouse development or planned development approved prior to May 1, 2001, the imputed acreage of the lot shall be calculated by combining the individual lot area with the pro-rata lot portion of 85% of the common open space shown on recorded plats of the development.

Notwithstanding the impervious surface limitations of this subsection, any lot with either a detached house used for single-unit living or attached house used for two-unit living existing at the time of adoption of this ordinance () shall be entitled to an additional 400 square feet of impervious surface area without providing the additional stormwater control measures required by this subsection.

~~b. Lots used for any use not specified in subsection a above shall be subject to Sec. 9.2.2. et seq. when the total impervious surface area of the lot exceeds the limits set in subsection a.~~

eb. The impervious surface limitations in this subsection may be exceeded if:

1. It is demonstrated that (with or without measures) the Post-development volume of stormwater leaving the site is equal to or less than the volume of stormwater for the Zoning District maximum percentage of impervious surface coverage allowed under subsection a during the 90th percentile storm.

For lots where the -existing impervious surface area already exceeds the Zoning District maximum percentage of impervious surface coverage limitations listed in subsection a above, the post-development volume must be equal to or less than the volume of stormwater for the 90th percentile storm for the existing conditions.; or

2. It is demonstrated that that (with or without measures) the flood level difference between the pre-development and post-development conditions for the 2, 10, 25, 50 and 100-year storm events is equal to or less than 0.04 foot rise.

For any site property owner that chooses options in subsection b. 1 or b.2 above requiring the installation of a structural stormwater control measure, the following additional requirements shall apply:

1. The property owner must submit an annual inspection report to the Stormwater Management Division of the Engineering Services Department. The inspections report shall contain all of the following:
 - a. The name and address of the property owner;
 - b. A statement that an inspection was made of all required stormwater control facilities and/or required open space area;
 - c. The date of the inspection;
 - d. A statement that all inspected stormwater control facilities and/or open space areas are performing properly and are in compliance with the approved stormwater control plan, the applicable maintenance manual required by Sec. 9.2.2.D.2 and the Raleigh Stormwater Management Manual. No sampling of pollutant loading is required as part of the inspection;
 - e. Current photographs of the stormwater control facilities and/or open space areas;
 - f. The original signature of the owner;
 - g. All inspection reports shall be on forms supplied by the City beginning from the date of the as-built certification under Sec. 9.2.2.D.3. and each year thereafter on the anniversary date of the certification.

- 4.2. Prior to issuance of a building permit, the property owner shall dedicate an access easement to the benefit of the City of Raleigh. The access easement may be in the form of a deed that the property owner records in the County in which the property is located. These sites will record an access easement for the property by deed for any device.

Section 2. Section 9.2.2.E 3 of the Unified Development Ordinance, Additional Runoff Controls, is hereby amended by deleting it in its entirety and replacing it with the following underlined provisions.

3. Additional Runoff Controls

The City may require the installation of stormwater runoff control measures for projects without any stormwater measures present when the benchmarks contained in the subsections a. through d below are applicable. The City reserves the right to require additional stormwater runoff control measures for projects which are compliant with Sec. 9.2.2 A or Sec. 9.2.2.E ~~4~~ above, if stormwater runoff from the site could cause adverse effects on other properties including, without limitation, public streets, greenways and utility easements.

- a. As part of an application for rezoning, subdivision or site plan for sites at or upstream of documented structural flooding cases, the applicant shall submit a stormwater impact analysis to the Public Works Director.
- b. This requirement does not extend to sites initially zoned and added to the territorial coverage of as a result of annexation, extraterritorial jurisdictional expansion or otherwise or application of any overlay district.
- c. The stormwater impact analysis shall look at the flood level differences between pre-development and post-development conditions for the 25-, 50- and 100-year storm events. If the analysis shows an increase greater than 0.04 feet between pre-development and post-development flood levels at the site of structural flooding then mitigation to predevelopment flood conditions will be required to prevent further damage to the affected property.
- d. In the case where the area of the subject property is less than 5% of the drainage area, measured to the location of the documented structural flooding, then this analysis shall not be required.
- e. In the event flood levels are increased, then the affected property owners will be notified in writing of any increase by the applicant.

Section 3. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

Section 4. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared severable.

Section 5. This text change has been reviewed by the Raleigh City Planning Commission.

Section 6. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 7. Prior to the effective date of this ordinance, staff shall update the Raleigh website to include the following information to provide clarity and guidance:

- a. Chart clarifying when potential treatment would be needed
- b. A planning tool created by city staff illustrating the potential of stormwater treatment needed for a given site

Section 8. This ordinance shall become effective on December 4, 2016.