

**ORDINANCE NO. 2016 – 644 TC 385
TC-2-16**

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

WHEREAS, the City of Raleigh is an MS4 City that is bound by the State-issued stormwater permit to regulate the impacts of stormwater runoff and quality; and

WHEREAS, the City Council appointed the Stormwater Management Advisory Committee to review regulatory improvements to the stormwater regulations; and

WHEREAS, the City of Raleigh previously adopted text change TC-6-15 to address stormwater exemptions; and

WHEREAS, the former TC-6-15 did not include all intended stormwater exemptions; and

WHEREAS, the introduction of modified stormwater regulations will benefit the City residents and reduce the negative impact of unregulated stormwater runoff.

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 Sec. 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 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.E are met.

- c. Substitution of impervious surfaces with approved pervious surfaces.

4. Impervious Surfaces Limitations and Other Regulations

- a. Lots exempted by subsections A.1 or A.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

R-1.....	20%
R-2.....	25%
R-4.....	38%
R-6.....	51%
R-10 and all other base zoning districts.....	65%

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 an existing detached house used for single-unit living or an existing attached house used for two-unit living shall be entitled to a one-time 400 square foot increase of impervious surface area without providing the additional stormwater control measures required by this subsection. This one-time exemption shall only be allowed if the qualifying structure (i) existed prior to the application of this ordinance, and (ii) the qualifying structure exists when the one-time exemption is applied to the property. However, the exemption once used shall remain with the property even if the qualifying structure is later demolished, voluntarily or involuntarily, from the property. This exemption, if not used, shall be inapplicable if the qualifying structure is voluntarily demolished from the property.

Editor’s Note: This ordinance was first applied on November 27, 2016.

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

1. It is demonstrated to the City 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 to the City 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.

- c. For any property owner installing any measure to comply with subsection b.1 or b.2 above, 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 inspection 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.

2. On lots with measures, prior to issuance of a building permit, or recordation of a subdivision plat, whichever first shall occur, the property owner shall deed an access easement and temporary construction easement to the benefit of the City of Raleigh. The easements shall be in the form of a deed that the property owner records in the County in which the property is located. A copy of this recorded deed shall be provided to the Development Services Department.

Section 2. Section 9.2.2.E 3 of the Unified Development Ordinance, Additional Runoff Controls, is hereby amended by deleting the following sections shown with a strike-through and adding 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.1 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 Engineering Services 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 pre-development 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 November 27, 2016. This ordinance shall not apply to any completed applications to increase impervious surface area that are submitted to the City prior to the effective date of this ordinance.

ADOPTED: November 1, 2016
EFFECTIVE: November 27, 2016

DISTRIBUTION: Planning – Bowers, Crane, Hodge
Stormwater – Hinkle, Brown
City Attorney – Botvinick, Hargrove-Bailey
Department Heads
Transcription Services – Taylor