

## ARTICLE 7

### WATERSHED REGULATIONS

#### **Section 7-1            General**

##### **7-1.1            Jurisdiction**

The provisions of these regulations shall apply within the area designated as a Public Water Supply Watershed by the North Carolina Environmental Management Commission and shall be defined and established on the map entitled, "Watershed Protection Map" which is adopted simultaneously herewith. The watershed map and all explanatory matter contained thereon accompanies and is hereby made a part of these regulations.

##### **7-1.2            Authority**

These watershed regulations are adopted and enforced pursuant to G.S. 160A, Article 19, Planning and Regulations (see also Article I, Section 1) and G.S. 143214.5 Water Supply and Watershed Protection.

##### **7-1.3            Adoption and Effective Date**

The Water Supply Watershed Protection Regulations were duly *adopted September 13, 1993 by the Town Council of Jonesville, North Carolina*. These amendments to the Jonesville Zoning Ordinance shall be effective October 1, 1993.

##### **7-1.4            Exceptions to Regulations**

- (a) Existing development, as defined in Section 7-2 Definitions, is not subject to the requirements of these regulations. Expansions to structures classified as existing development must meet the requirements of these regulations, however, the built-upon area of the existing development is not required to be included in the density calculations.
- (b) A pre-existing lot owned by an individual prior to the effective date of these regulations, regardless of whether or not a vested right has been established, may be developed for single-family residential purposes without being subject to the restrictions of these regulations.

##### **7-1.5            Criminal Penalties**

In addition to the penalties imposed by Section 14-3 of the Jonesville Zoning Ordinance, the North Carolina Environmental Management Commission may assess civil penalties in accordance with G.S. 143-215.6(a). Each day that the violation continues shall constitute a separate violation.

## **Section 7-2                      Definitions**

The following definitions apply specifically to the watershed overlay districts.

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

**Animal Units.** A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations. One hundred animal units equates to 70 dairy cows, 100 beef cattle, 250 hogs, 50 horses, 1,000 sheep, 5,500 turkeys, 3,000 chickens with liquid manure systems, 10,000 chickens with continuous overflow waterers, or 500 ducks.

**Best Management Practices (BMP's).** A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

**Buffer (watershed).** An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

**Built-upon Area** (impervious area). Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: wooden slatted decks and the water area of a swimming pool are considered pervious.)

**Cluster Development.** The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

**Critical Area.** The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

**Development.** Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

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

**Existing Development.** Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

- (1) substantial expenditures of resource (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- (2) possession of an outstanding valid building permit as authorized by the General Statutes (G.S. 153A-344.1), or
- (3) substantial expenditure of resources (time, labor, or money) and having an approved site specific or phased development plan in compliance with 160D-102.

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

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

**Landfill.** A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

**Major Watershed Variance.** A variance that would completely eliminate a management requirement, or reduce a management requirement with a numerical standard by more than ten percent (10%).

**Minor Watershed Variance.** Any variance of the watershed regulations not considered a major one as defined above.

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

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

**Protected Area.** The area adjoining and upstream of the critical area in a WSIV water supply. The boundaries are defined as ten (10) miles upstream and draining to the intake located directly in the stream or river.

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

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

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

**Water Dependent Structure.** Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purposes, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boats storage areas are not water dependent structures.

**Watershed.** The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.)

### **Section 7-3 Development Regulations**

#### **7-3.1. Yadkin River - Critical Area (WS-IV-CA).**

##### Density and Built-upon Limits:

1. Single-family residential development shall not exceed two (2) dwelling unit per acre on a project-by-project basis. No residential lot shall be less than one-half (1/2) acre, except within an approved cluster development.
2. All other residential and non-residential development shall not exceed twenty-four percent (24%) built-upon area on a project-by-project basis. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

#### **7-3.2 Yadkin River - Protected Area (WS-IV-PA).**

##### Density and Built-upon Limits

1. Single-family residential development shall not exceed two (2) dwelling units per acre, as defined on a project-by-project basis. No residential lot shall be less than one-half (1/2) acre, or one-third (1/3) acre for

projects without a curb and gutter system, except within an approved cluster development.

2. All other residential and non-residential development shall not exceed twenty-four percent (24%) built-upon area on a project-by-project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

### **7-3.3 Cluster Development**

Clustering of development is allowed in all drinking supply watershed areas under the following conditions:

- (a) Minimum lot sizes are not applicable to single-family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-family detached developments in subsection 7-4.4(d) above. Built-upon area or stormwater control requirements of the project shall not exceed that allowed for the critical area or balance watershed, whichever applies.
- (b) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- (c) The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, title of the open space areas shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

### **7-3.4 Watershed Buffer Areas Required**

- (a) Stream Buffers: A minimum thirty (30) foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.
- (b) Development in Buffers: No new development is allowed in the buffer except public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices.

## **Section 7-4 Administration**

### **7-4.1 Additional Duties**

The Zoning Enforcement Officer shall administer the provisions of the zoning ordinance as specified in Article 4 Subsection 4-4.1. Within the watershed overlay districts, he shall have the following additional duties:

- (a) maintain files of all amendments to the local water supply watershed regulations and shall provide copies of amendments upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management;
- (b) record all variances (including a description of each project and the reasons for granting it) the watershed regulations and submit to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management by January 1 of each year; and
- (c) monitor land-use activities in the watersheds to identify situations that may threaten water quality. He shall report these situations to the agency with direct regulatory responsible for these activities.

### **7-4.2 Amendments**

All amendments to the watershed regulations shall be handled as specified in Subsection 4-1.2 Amendments. Under no circumstances shall the Town of Jonesville amend supplement or change the watershed regulations that would cause the regulations to violate the watershed protection rules as adopted by the North Carolina Environmental Management Commission. All amendments shall be filed with the North Carolina Department of Environment, Health, and Natural Resources, Division of Environmental Management, and Division of Environmental Health, and the Department of Commerce, Division of Community Assistance.

### **7-4.3 Watershed Variances**

- (a) Minor Variance: The board of adjustment shall handle minor variances as specified in subsection 4-3.4 (c)
- (b) Major Variance: If a major variance is requested, the board of adjustment , after making a favorable decision in granting the request, shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:
  - 1. the variance application;
  - 2. the hearing notices;
  - 3. the evidence presented;

4. motions, offers of proof, objections to evidence, and rulings on them;
5. proposed findings and exceptions;
6. the proposed decision, including all conditions proposed to be added to the permit.

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

The commission shall review the preliminary record and determine whether or not: (1) the request qualifies as a major variance; (2) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted; and (3) the variance, if granted, will not result in a serious threat to the water supply. Based on its findings the commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations, or disapprove it. The commission shall prepare a decision and send it to the board of adjustment. Based on the determination of the commission, the board of adjustment shall prepare a final decision.

- (c) Notification: In designated drinking water supply watersheds, the Zoning Enforcement Officer shall notify any jurisdictions within the watershed of a proposed variance to the watershed regulations. Local governments may submit any comments to the Zoning Enforcement Officer before the public hearing by the board of adjustment.

#### **7-4.5 Boundary Determination**

The watershed boundaries are delineated on U.S.G.S 1:24,000 Topographic maps. If a property owner questions whether or not his property lies within the drainage pattern of the drinking water supply watershed, it shall be his responsibility to demonstrate to the town that an error has been made.