

CHAPTER 10
WATERSHED PROTECTION REGULATIONS
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CHAPTER 10

WATERSHED PROTECTION REGULATIONS

10.01 INTENT

The intent of the Water Supply Watershed Ordinance is to protect surface water supplies whose watersheds are located within the jurisdiction of the City of Asheboro.

10.02 AUTHORITY AND ENACTMENT

Under the authority of N. C. G. S. 143-214.5, the City Council of the City of Asheboro, North Carolina, to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry, the City Council of the City of Asheboro does hereby ordain and enact into law the following articles as the Watershed Protection Ordinance of the City of Asheboro.

10.03 JURISDICTION.

- (A) The provisions of this chapter shall apply within the corporate limits of the City of Asheboro and to such extraterritorial areas designated as a Public Water Supply Watershed by the N.C. Environmental Management Commission and shall be defined and established on the map entitled, "Watershed Protection Map of the City of Asheboro, North Carolina (the watershed map), which is adopted simultaneously herewith. The Watershed Protection District shall be considered an overlay district to the existing zone districts. Uses permitted within the underlying districts shall be permitted provided they meet the requirements of this Chapter. The Watershed Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Chapter. This chapter shall be permanently kept on file in the office of the City Clerk.
- (B) The following Public Water Supply Watersheds designated by the N. C. Environmental Management Commission and the City Council of the City of Asheboro are:

WATERSHED CLASSIFICATION RIVER BASIN

Back Creek Lake WS-II Yadkin
UT to Cedar Creek WS-II Yadkin

10.04 EXCEPTIONS TO APPLICABILITY

- (A) Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this chapter amend, modify, or restrict any provisions of the Zoning Ordinance of the City of Asheboro; however, the adoption of this Chapter shall and does amend any and all ordinances, resolutions and regulations in effect in the City of

Asheboro at the time of the adoption of this Chapter that may be construed to impair or reduce the effectiveness of the Ordinance or to conflict with any of its provisions.

- (B)** It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.
- (C)** Existing development, as defined in this chapter, is not subject to the requirements of this Chapter. Expansions to structures classified as existing development must meet the requirements of this chapter, however, the built-upon area of the existing development is not required to be included in the density calculations.
- (D)** A preexisting lot owned by an individual prior to the effective date of this chapter, 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 this chapter. However, this exemption is not applicable to multiple contiguous lot under single ownership. See Section 10.15(A)(3) regarding the recombination of existing lots.

10.05 CRIMINAL PENALTIES

Any person violating any provisions of this Chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with N. C. General Statutes 14-4. The maximum fine for each offense shall not exceed \$500. Each day that the violation continues shall be constitute a separate offense.

10.06 REMEDIES

- (A)** If any subdivision, development and/or land use is found to be in violation of this chapter, the City Council of the City of Asheboro may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$50.00 action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N. C. 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 offense.
- (B)** If the Watershed Administrator finds that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such violation indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings, or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized this chapter to ensure compliance with or to prevent violation

of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board.

10.07 SEVERABILITY

Should any section or provision of this chapter be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this chapter as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

10.08 EFFECTIVE DATE

This ordinance shall take effect and be in force on July 1, 1993.

10.09 SUBDIVISION REGULATIONS

(A) General Provisions

- (1) No subdivision plat of land within the Public Water Supply Watersheds shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this Chapter. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this Chapter.
- (2) All applications to subdivide land in a designated water supply watershed shall comply with the application, review and mapping requirement of the City of Asheboro Subdivision Ordinance, including specifications in Appendices A, B, and C for mapping.
- (3) If the City Council approves the application, such approval shall be indicated on both copies of the plat by the following certificate and signed by the Watershed Administrator.

Certificate of Approval for Recording Minor Subdivision

I certify that the plat shown hereon complies with the Subdivision Regulations for the City of Asheboro, North Carolina and any supplemental regulations that may apply and that such plat has been approved according to the procedures for approval of minor subdivisions.

Date

Watershed Administrator

NOTICE: This property is located within a Public Water Supply Watershed - development restrictions may apply.

Certificate of Approval for Recording Major Subdivision

This subdivision plat has been found to comply with the provisions of the Subdivision Ordinance of the City of Asheboro provided that it is recorded in the Office of the Register of Deeds within 60 days of final approval by the City Council.

Watershed Administrator

Date Approved by City Council

NOTICE: This property is located within a Public Water Supply Watershed - development restrictions may apply.

(B) Subdivision Standards and Required Improvements

- (1) Subdivisions in any designated drinking supply watershed shall comply with Article IX, Required Improvements and Design Standards of the City of Asheboro Subdivision Ordinance as well as the requirements specified below.
- (2) All lots shall provide adequate building space in accordance with the development standards contained in Chapter 4. Lots which are smaller than the minimum required for residential lots shall be identified on the plat as "NOT FOR RESIDENTIAL PURPOSES".
- (3) For the purpose of calculating built upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- (4) Storm Water Drainage Facilities. The application shall be accompanied by a description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters and incorporates best management practices to minimize water quality impacts.
- (5) Erosion and Sedimentation Control. The application shall, where required, be accompanied by a written statement that a Sedimentation and Erosion Control Plan has been submitted to and approved either the City of Asheboro or by the N. C. Division of Land Quality.
- (6) Roads constructed in critical areas and watershed buffer areas. Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed so to minimize their impact on water quality.

10.10 DEVELOPMENT REGULATIONS

(A) Establishment of Watershed Overlay Districts

To provide an additional layer of protection for drinking water supply watersheds, the following watershed overlay districts are established. Within each watershed shall be two tiers of control. The area nearest the water supply -- critical area -- shall have the higher level of regulation because proximity to the intake creates higher risk of contamination. The remaining part of the watershed -- balance of the watershed -- shall have less restrictions because the greater distance from the point of intake lowers risk of contamination.

The following overlay districts shall apply to the watersheds of the City of Asheboro:

Back Creek Lake WS-II-CA (Critical Area)

Back Creek Lake WS-II-BW (Balance of Watershed)

UT to Cedar Creek WS-II-CA (Critical Area)

UT to Cedar Creek WS-II-BW (Balance of Watershed)

(B) Back Creek Lake WS-II-CA (Critical Area) UT to Cedar Creek WS-II-CA (Critical Area)

(1) Intent.

In order to maintain a predominantly undeveloped land use intensity pattern, single family residential uses shall be allowed at a maximum of one dwelling unit per 2 acres. All other residential and nonresidential development shall be allowed a maximum of 6% built-upon area.

(2) Allowed Uses

- (a) All uses allowed in the underlying zoning districts where the watershed is located, subject to the modifications noted below unless specifically excluded in (3) Prohibited Uses.
- (b) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of USGS 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.
- (c) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

(3) Prohibited Uses

- (a) Storage of hazardous materials.
- (b) landfills or incinerators
- (c) sites for land application of sludge/residuals or petroleum contaminated soils
- (d) commercial uses which sell, store or distribute motor fuels or other hazardous materials
- (e) airports
- (f) industrial uses
- (g) metal salvage facilities including junkyards

- (h) manufacture, use or storage of any hazardous materials including waste as listed on the EPA hazards material list or determined by the City Council of the City of Asheboro.
- (i) private sewage disposal systems except for subsurface septic tanks. Public community sewage treatment facilities may only be allowed if the Health Department determines that an existing public health problem can be alleviated by constructing sewage facilities.

(4) Density and Built-upon Limits:

- (a) Single family Residential -- development shall not exceed one dwelling unit per two (2) acres on a project by project basis. No residential lot shall be less than two acres, except within an approved cluster development.
- (b) All other residential and nonresidential development shall not exceed six (6%) percent built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(C) Back Creek Lake Watershed -- Balance of Watershed UT to Cedar Creek -- Balance of Watershed WS-II-BW

(1) Intent.

In order to maintain a predominantly undeveloped land use intensity pattern, single family residential uses shall be allowed at a maximum of one dwelling unit per acre. All other residential and nonresidential development shall be allowed a maximum of 12% built-upon area. In addition, new development may occupy ten percent (10%) of the balance of the watershed which is outside the critical area, with a seventy percent (70%) built upon area when approved as a special intensity allocation (SIA).

The City Council is authorized to consider a Special Use Permit for SIAs consistent with the provisions of this Ordinance.

(2) Allowed Uses

- (a) All uses allowed in the underlying zoning districts where the watershed is located, subject to the modifications noted below unless specifically excluded in (2) Prohibited Uses.
- (b) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- (c) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

- (d) Non-discharging landfills and sludge application sites are allowed.

(3) Prohibited Uses:

- (a) discharging landfills
- (b) new underground fuel or chemical storage tanks
- (c) storage of hazardous materials except as provided in (4), Hazardous Material Storage Requirements.

(4) Hazardous Material Storage Requirements

- (a) The applicant shall submit a spill prevention, containment, and control plan (SPCC) prepared by a professional competent in SPCC development.
- (b) The SPCC shall demonstrate that the proposed hazardous materials which are to be stored cannot pose a threat of contamination to the water supply
- (c) All spill containment structures shall be designed by a North Carolina registered professional engineer or architect.
- (d) The applicant shall enter into a binding Operation and Maintenance Agreement between the City of Asheboro and all interests in the development. Said agreement shall require the owning entity to maintain, repair, and if necessary, reconstruct any spill containment structure in accordance with the operation and management plan or manual provided. The Operation and Maintenance Agreement shall be filed with the Randolph County Register of Deeds by the Watershed Review Board.
- (e) The spill containment structure shall be inspected by the Watershed Administrator, or his designated representative, after the owning entity notifies the Watershed Administrator that all work has been completed. At this inspection, the owning entity shall provide a certification sealed by an engineer or architect stating that any spill containment structure is complete and consistent with the approved plans and specifications.
- (f) A Watershed Protection Occupancy permit shall not be issued for any building within the permitted development until the SPCC is approved and any spill containment structure's construction has been properly certified approved.
- (g) The property owner shall have all spill containment structures inspected at least on an annual basis to determine whether the controls are performing as designed and intended.
- (h) In the event the Watershed Administrator discovers the need for corrective action or improvements, the Watershed Administrator shall notify the owning entity of the

needed improvements and the date by which the corrective action is to be completed. All corrective action or improvements shall be made consistent with the plans and specifications and the operation and maintenance plan or manual. After notification by the owning entity, the Watershed Administrator shall inspect and approve the completed corrective action or improvements.

(5) Density and Built-upon Limits

- (a) Single family Residential -- development shall not exceed one dwelling unit per acre on a project by project basis. No residential lot shall be less than one acre, except within an approved cluster development.
- (b) All other residential and nonresidential development shall not exceed twelve (12%) percent built-upon area on a project by project basis except that up to ten percent (10%) of the balance of the watershed may be developed at up to seventy percent (70%) built upon area on a project by project basis. For the purpose calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

10.11 CLUSTER DEVELOPMENT

Clustering of development is allowed in all Watershed Areas except WS-I 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 Section 10.10 Development Regulations. Built-upon area or stormwater control requirements of the project shall not exceed that allowed for the critical area or balance of 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, the title of the open space area 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.
- (D)** Cluster development shall comply with all requirements of Article X of the Asheboro Subdivision Ordinance, and Section 5.05(16) of the Asheboro Zoning Ordinance except as modified above.

10.12 BUFFER AREAS REQUIRED

- (A)** A. A minimum fifty (50) 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)** No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.
- (C)** Around water supply reservoirs, there shall be maintained a one hundred (100) foot vegetative buffer, measured from the normal pool line outward.
- (D)** Septic tank fields shall extend no closer than two hundred (200) feet from reservoirs, measured in the same manner. Lots abutting the reservoir shall measure two hundred (200) feet in width at the building line.

10.13 RULES GOVERNING THE INTERPRETATION OF WATERSHED AREA BOUNDARIES.

Where uncertainty exists as to the boundaries of the watershed area, as shown on the Watershed Map, the following rules shall apply:

- (A)** Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.
- (B)** Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the City of Asheboro as evidence that one or more properties along these boundaries do not lie within the watershed area.
- (C)** Where the watershed area boundaries lie at a scaled distance more than twenty five feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.
- (D)** Where the watershed boundaries lie at a scaled distance of twenty five feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- (E)** Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

10.14 APPLICATION OF REGULATIONS

- (A)** No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.
- (B)** No area required for the purpose of complying with the provisions of this ordinance shall be included in the area required for another building.
- (C)** Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified except as permitted in Section 10.15.
- (D)** If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

10.15 EXISTING DEVELOPMENT

Any existing development as defined in this Ordinance may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this ordinance, however, the built-upon area of the existing development is not required to be included in the density calculations.

(A) Vacant Lots

This category consists of vacant lots for which plats or deeds have been recorded in the office of the Register of Deeds of Randolph County. Lots may be used for any of the uses allowed in the watershed area in which it is located provided the following:

- (1)** Where the lot area is below the minimum specified in this ordinance the Watershed Administrator is authorized to issue a watershed protection permit.
- (2)** Where the buffer standard needs to be modified due to the shape and/or size of a residential or nonresidential lot, the Watershed Administrator is authorized to issue a watershed protection permit provided the buffer requirement is complied with to the maximum extent practicable. This modification shall not be greater than ten feet in relief.
- (3)** Notwithstanding the foregoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create one or more lots that meet the standards of this ordinance, or if this is impossible, reduce to the extent possible the nonconformity of the lots.

(B) Occupied Lots

This category consists of lots, occupied for residential purposes at the time of the adoption of this ordinance. These lots may continue to be used provided that whenever two or more adjoining lots

of record, one of which is occupied, are in single ownership at any time after the adoption of this ordinance, and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed area in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.

(C) Uses of Land

This category consists of uses existing at the time of adoption of this ordinance where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:

- (1) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
- (2) Such use of land shall be changed only to an allowed use.
- (3) When such use ceases for a period of at least one year, it shall not be reestablished.

(D) Reconstruction of Buildings or Built-upon areas.

Any existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost or bulk, exclusive of foundations and land value may be repaired and/or reconstructed, except that there are no restrictions on single family residential development, provided:

- (1) Repair or reconstruction is initiated within twelve months and completed within two years of such damage.
- (2) The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

10.16 WATERSHED PROTECTION PERMIT

- (A)** No building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Watershed Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this ordinance.
- (B)** Watershed Protection Permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form and supporting documentation deemed necessary by the Watershed Administrator.

- (C) Prior to the issuance of a Watershed Protection Permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.
- (D) A Watershed Protection Permit shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within 12 months from the date of issuance.

10.17 BUILDING PERMIT REQUIRED

After receiving a Watershed Protection Permit, a Building Permit shall be obtained from either the City of Asheboro or Randolph County Inspections Department for construction or alteration of any building or structure pursuant to the procedures of the City of Asheboro and Randolph County.

10.18 WATERSHED PROTECTION OCCUPANCY PERMIT

- (A) The Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.
- (B) A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten days after the erection or structural alterations of the building.
- (C) When only a change in use of land or existing building occurs, the Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met coincident with the Watershed Protection Permit.
- (D) If the Watershed Protection Occupancy Permit is denied, the Watershed Administrator shall notify the applicant in writing stating the reasons for denial.
- (E) No building or structure which has been erected, moved, or structurally altered may be occupied until the Watershed Administrator has approved and issued a Watershed Protection Occupancy Permit.

10.19 PUBLIC HEALTH REGULATIONS

(A) Public Health, in General

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for hazardous

materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

(B) Abatement

The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

(C) The Watershed Administrator shall report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations.

(D) Where the Watershed Review Board finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

10.20 ADMINISTRATION, ENFORCEMENT AND APPEALS

The City of Asheboro's Zoning Administrator shall serve as the Watershed Administrator, who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this ordinance as follows:

(A) The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.

(B) The Watershed Administrator shall serve as clerk to the Board of Adjustment which sits as the Watershed Review Board.

(C) The Watershed Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management.

(D) The Watershed Administrator shall keep records of the jurisdiction's utilization of the provision that a maximum of ten percent (10%) of the noncritical area of WS-II-BW may be developed to a maximum of seventy percent built upon surface area. Records for each watershed shall include the total acres of noncritical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, acres, site plan, use, stormwater management plan as applicable and inventory of hazardous materials as applicable. As of July 1, 1993 there are 3,500.8 acres in the Back Creek BW and 350.08 acres eligible for the 10% provision; in the UT to Cedar Creek there are 940.8 acres in the BW and 94.08 acres eligible for the 10% provision in the City of Asheboro's jurisdiction.

- (E) The Watershed Administrator is granted the authority to administer and enforce the provisions of this ordinance, exercising in the fulfillment of his responsibility the full police power of the City of Asheboro. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this ordinance.
- (F) The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management on an annual basis and shall provide a description of each project receiving a variance and the reasons for granting the variance.

10.21 APPEAL FROM THE WATERSHED ADMINISTRATOR

Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to and decided by the Board of Adjustment sitting as the Watershed Review Board as specified in Chapter 2 of the Asheboro Zoning Ordinance.

10.22 CHANGES AND AMENDMENTS TO THE WATERSHED PROTECTION ORDINANCE.

- (A) The City Council of the City of Asheboro may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.
- (B) No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. If no recommendation has been received from the Watershed Review Board within forty five days after submission of the proposal to the Chairman of the Watershed Review Board, the City Council may proceed as though a favorable report had been received.
- (C) Under no circumstances shall the City Council adopt such amendments, supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N. C. Environmental Management Commission. All amendments must be filed with the N. C. Division of Environmental Management, N. C. Division of Environmental Health, and the N. C. Division of Community Assistance.

10.23 PUBLIC NOTICE AND HEARING REQUIRED

Before adopting or amending this ordinance, the City Council of the City of Asheboro shall hold a public hearing on the proposed change. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be

published for the first time not less than 10 days nor more than 25 days before the date fixed for the hearing.

10.24 ESTABLISHMENT OF WATERSHED REVIEW BOARD

The members of the Asheboro Board of Adjustment shall serve as the Watershed Review Board. The same rules of procedure as specified in the Asheboro Zoning Ordinance shall apply.

10.25 POWERS AND DUTIES OF THE WATERSHED REVIEW BOARD

(A) Administrative Review.

The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this ordinance.

(B) Variances.

The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done. In addition the City of Asheboro shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered. Any entity using the watershed for water consumption where the variance is being considered is also to be notified and allowed a reasonable comment period.

- (1)** Applications for a minor variance shall be made on the proper form obtainable from the Watershed Administrator. The procedures for applying for, hearing, granting or denying a variance are those spelled out in Chapter 2 of the Asheboro Zoning Ordinance.
- (2)** If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:
 - (a)** The variance application;
 - (b)** The hearing notices;
 - (c)** The evidence presented;
 - (d)** Motions, offers of proof, objections to evidence, and rulings on them;
 - (e)** Proposed findings and exceptions;
 - (f)** The proposed decision, including all conditions proposed to be added to the permit.

The preliminary record of the hearing for a major variance shall be sent to the Environmental Management Commission for its review. If the Commission approves the variance as proposed, the Watershed Review Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Watershed Review Board shall prepare a final decision including such conditions and stipulations, granting the proposed variance.

If the Commission denies the variance as proposed, the Watershed Review Board shall prepare a final decision denying the variance as proposed.

10.26 WATERSHED DEFINITIONS

Agricultural Use

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

Animal Unit

A unit of measurement developed by the U. S. Environmental Protection Agency that is used to compare different types of animal operations.

Best Management Practices (BMP)

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

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.

Building

Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

Built-upon area

Built-upon acres 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 multifamily development that do not involve the subdivision of land.

Composting Facility

A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

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). Since WS-I watersheds are essentially undeveloped, establishment of a critical area is not required. 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.

Customary Home Occupations

Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purpose and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over twenty five percent of the total floor space of any structure is used for the occupation No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck, etc.

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.

Dwelling Unit

A building, or portion thereof, providing complete and permanent living facilities for one family.

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:

- (A) substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- (B) having an outstanding valid building permit as authorized by the General Statutes.
- (C) having expended substantial resources (time, labor, money,) and having an approved site specific or phased development plan as authorized by the General Statutes.

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 nonresidential development that requires and NPDES permit for an industrial discharge and/or requires the use of 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.

Lot

A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

Major Variance

A variance that results in any one or more of the following:

- (A) the complete waiver of a management requirement;
- (B) the relaxation by a factor of more than ten percent of any management requirement that takes the form of a numerical standard;
- (C) the relaxation of any management requirement that applies to a development proposal intended to qualify under the high density option.

Minor Variance

A variance that does not qualify as a major variance.

Nonresidential 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.

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 storage buildings, gazebos, etc., and customary home occupations.

Single Family Residential

Any development where:

- (A) no building contains more than one dwelling unit;
- (B) every dwelling unit is on a separate lot;
- (C) where no lot contains more than one dwelling unit.

Street (Road)

A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

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.

Subdivider

Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision

All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving not be included within this definition nor be subject to the regulations authorized by this ordinance:

- (A) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance;
- (B) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- (C) The public acquisition by purchase of strips of land for the widening or opening of streets;

- (D) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this ordinance;
- (E) the division of a tract into plots or lots used as a cemetery.

Variance

A permission to develop or use property granted by the Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this ordinance.

Water Dependent Structure

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

Watershed

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

Watershed Administrator

An official or designated person of the City of Asheboro responsible for administration and enforcement of this ordinance.

10.27 WORD INTERPRETATION.

For the purpose of this ordinance, certain words shall be interpreted as follows:

Words in the present tense include the future tense.

Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

The word "structure" shall include the word "building".

The word "lot" shall include the words, "plot", "parcel", or "tract".

The word "shall" is always mandatory and not merely directory.

The word "will" is always mandatory and not merely directory.