

# ARTICLE 11

## WATERSHED OVERLAY DISTRICTS

### SECTION 11.1 AUTHORITY AND GENERAL REGULATIONS

#### 11.1.1 Authority

The Legislature of the State of North Carolina has, in NCGS 153A-6.121, General Ordinance Authority and in NCGS 143-21, Watershed Protection Rules, delegated the responsibility and authority to local governmental units to establish water supply watershed protection programs, to regulate land use and development within water supply watersheds, and to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

#### 11.1.2 Applicability

- 11.1.201 The provisions of this Article shall apply within the areas in Moore County's zoning jurisdiction that are designated as Public Water Supply Watersheds by the N.C. Environmental Management Commission and shall be defined and established on the map(s) entitled, "Moore County Public Water Supply Watershed Overlay Districts," which is adopted simultaneously herewith.
- 11.1.202 The "Moore County Public Water Supply Watershed Overlay Districts" Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance.

#### 11.1.3 Exceptions

- 11.1.301 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 restrict any provisions of the Code of Ordinances of Moore County.
- 11.1.302 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.
- 11.1.303 Existing development, as defined by this Article, is not subject to the requirements of this Article. Expansions to structures classified as existing development must meet the requirements of this Article; however, the built-upon area of the existing development is not required to be included in the density calculations.
- 11.1.304 A lot that pre-existed the original effective date of these regulations (December 31, 1993 or before), 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 Article.

#### **11.1.4 Application of Regulations**

- 11.1.401 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.
- 11.1.402 No area required for the purpose of complying with the provisions of this Ordinance shall be included in the area required for another building.
- 11.1.403 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.

#### **11.1.5 Rules Governing the Interpretation of Watershed Area Boundaries**

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

- 11.1.501 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.
- 11.1.502 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 [County][Town] as evidence that one or more properties along these boundaries do not lie within the watershed area.
- 11.1.503 Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) 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.
- 11.1.504 Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- 11.1.505 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.

#### **11.1.6 Set Aside for Public Projects and Facilities**

- 11.1.601 In order to assure that sufficient land is available for public projects and facilities within the five identified Watershed areas, 5% of the Special Nonresidential Intensity Allocation shall be set aside for such projects in the Drowning Creek Watershed, the Bear Creek Watershed, the Little River (Vass) Watershed, and the Little River #2 Watershed.

- 11.1.602 Ten percent (10%) of the Nick’s Creek Watershed shall be set aside for these purposes. Public projects and facilities shall include schools, public buildings and other similar uses.

**11.1.7 Watershed Certification for Subdivisions**

- 11.1.701 All subdivisions of land are subject to the provisions contained in **Article 17** (Subdivision Regulations).
- 11.1.702 All subdivision of land meeting the requirements of this Article shall contain the certificate entitled **Public Water Supply Watershed Protection Certificate in Appendix C** (Subdivision Plat Certificates and Statements).

**11.1.8 Establishment of Watershed Areas**

The purpose of this Article is to list and describe the watershed areas herein adopted. For purposes of this Ordinance the County of Moore is hereby divided into the following area[s], as appropriate:

- 11.1.801 WS-II-CA (Critical Area)
- 11.1.802 WS-II-BW (Balance of Watershed)
- 11.1.803 WS-III-CA (Critical Area)
- 11.1.804 WS-III-BW (Balance of Watershed)
- 11.1.805 WS-IV-PA (Protected Area)

**SECTION 11.2 WS-II-CA WATERSHED REGULATIONS**

**11.2.1 Allowed Uses**

- 11.2.101 Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission.
- 11.2.102 Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).
- 11.2.103 Residential development.
- 11.2.104 Non-residential development, excluding landfills and sites for land application of residuals or petroleum contaminated soils.

**11.2.2 Density and Built-upon Limits**

- 11.2.201 Single Family Residential development shall not exceed one dwelling unit per two (2) acres on a project by project basis.
- 11.2.202 No residential lot shall be less than two (2) acres [80,000 square feet excluding roadway right-of-way], except within an approved cluster development.

- 11.2.203 All Other Residential and Non-Residential--development shall not exceed six percent (6%) 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.

## SECTION 11.3 WS-II-BW WATERSHED REGULATIONS

### 11.3.1 Allowed Uses

- 11.3.101 Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- 11.3.102 Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
- 11.3.103 Residential development.
- 11.3.104 Non-residential development excluding discharging landfills.

### 11.3.2 Density and Built-upon Limits

- 11.3.201 Single Family Residential development shall not exceed one dwelling unit per acre (1 du/ac) on a project by project basis.
- 11.3.202 No residential lot shall be less than one acre (or 40,000 square feet excluding roadway right-of-way), except within an approved cluster development.
- 11.3.203 All Other Residential and Non-Residential--development shall not exceed twelve percent (12%) 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 as approved by the Watershed Review Board (see §3.13 Special Non-Residential Intensity Allocation). 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.

## SECTION 11.4 WS-III-CA WATERSHED REGULATIONS

### 11.4.1 Allowed Uses

- 11.4.101 Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission.
- 11.4.102 Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
- 11.4.103 Residential development.

- 11.4.104 Non-residential development, excluding: 1) landfills and 2) sites for land application of residuals or petroleum contaminated soils.

**11.4.2 Density and Built-upon Limits**

- 11.4.201 Single Family Residential--development shall not exceed one dwelling unit per acre (1 du/ac) on a project by project basis.
- 11.4.202 No residential lot shall be less than one acre (or 40,000 square feet excluding roadway right-of-way), except within an approved cluster development.
- 11.4.203 All Other Residential and Non-Residential development shall not exceed twelve percent (12%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, the total project area shall include total acreage in the tract on which the project is to be developed.

**SECTION 11.5 WS-III-BW WATERSHED REGULATIONS**

**11.5.1 Allowed Uses**

- 11.5.101 Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- 11.5.102 Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
- 11.5.103 Residential development.
- 11.5.104 Non-residential development excluding discharging landfills.

**11.5.2 Density and Built-upon Limits**

- 11.5.201 Single Family Residential development shall not exceed two (2) dwelling units per acre, as defined on a project by project basis.
- 11.5.202 No residential lot shall be less than one-half (1/2) acre (or 20,000 square feet excluding roadway right-of-way), except within an approved cluster development.
- 11.5.203 All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) 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 with new development and expansions to existing development at up to seventy percent (70%) built-upon area on a project by project basis as approved by the Watershed Review Board (see §3.13 Special Non-Residential Intensity Allocation). 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.

## SECTION 11.6 WS-IV-PA WATERSHED REGULATIONS

### 11.6.1 Allowed Uses

- 11.6.101 Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- 11.6.102 Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
- 11.6.103 Residential development.
- 11.6.104 Non-residential development.

### 11.6.2 Density and Built-upon Limits

- 11.6.201 Single Family Residential development shall not exceed two (2) dwelling units per acre, as defined on a project by project basis.
- 11.6.202 No residential lot shall be less than one-half (1/2) acre (or 20,000 square feet excluding roadway right-of-way), or one-third (1/3) acre for projects without a curb and gutter street system, except within an approved cluster development.
- 11.6.203 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. 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.

## SECTION 11.7 DEVELOPMENT REGULATIONS

### 11.7.1 Cluster Development

Cluster development is allowed in all Watershed Areas under the following conditions:

- 11.7.101 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 for each watershed overlay district.
- 11.7.102 Density or built-upon area for the project shall not exceed that allowed for the critical area, balance of watershed or protected area, whichever applies.
- 11.7.103 All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
- 11.7.104 Areas of concentrated density development shall be located in upland area and away, to the maximum extent practicable, from surface waters and drainage ways.

- 11.7.105 The remainder of the tract shall remain in a vegetated or natural state.
- 11.7.106 The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement.
- 11.7.107 Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.
- 11.7.108 Cluster developments that meet the applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

### **11.7.2 Buffer Areas Required**

- 11.7.201 A minimum one hundred (100) foot natural vegetative buffer is required for all new development activities that exceed the low density option; otherwise, a minimum thirty (30) foot natural 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.
- 11.7.202 No new development is allowed in the natural vegetative buffer except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area 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.

### **11.7.3 Vacant Lots**

- 11.7.301 This category consists of vacant lots for which plats or deeds have been recorded in the Office of the Register of Deeds of Moore County as of December 31, 1993 or before.
- 11.7.302 Vacant lots may be used for any of the uses allowed in the Watershed Overlay District in which it is located.
- 11.7.303 Where the lot area is below the minimum specified in this Article, the Watershed Administrator or Deputy is authorized to issue a Watershed Protection and Zoning Permit provided the use is allowed in the Watershed Overlay District in which it is located.

### **11.7.4 Occupied Lots**

- 11.7.401 This category consists of lots occupied for residential purposes prior to the original adoption of these regulations (December 31, 1993 or before).
- 11.7.402 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 original adoption of these regulations, and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed zoning overlay district in which it is located, such lots may be required to be combined to create lots that meets the minimum size requirements or that minimize the degree of nonconformity.

### **11.7.5 Uses of Land**

This category consists of uses existing at the time of original adoption of these regulations where such use of the land is not permitted to be established hereafter in the watershed zoning overlay district in which it is located. Such uses may be continued except as follows:

- 11.7.501 When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
- 11.7.502 Such use of land shall be changed only to an allowed use.
- 11.7.503 When such use ceases for a period of at least one hundred eighty (180) days, it shall not be reestablished.

### **11.7.6 Reconstruction of Buildings or Built-upon Area**

Any existing building or built-upon area at the time of original adoption of these regulations not in conformance with the restrictions of this Article that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single family residential development, provided:

- 11.7.601 Repair or reconstruction is initiated within twelve (12) months and is completed within two (2) years of such damage.
- 11.7.602 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.

## **SECTION 11.8 PUBLIC HEALTH**

### **11.8.1 General Public Health**

- 11.8.101 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.
- 11.8.102 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

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

**11.8.2 Abatement**

- 11.8.201 The Zoning Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
- 11.8.202 The Zoning Administrator shall report all findings to the Watershed Review Board. The Zoning Administrator may consult with any public agency or official and request recommendations.
- 11.8.203 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.

