

## TEXT AMENDMENTS

### SURRY COUNTY ZONING ORDINANCE

SEPTEMBER 18, 2006

*Article 11, "Table of Uses", Section 2, "Table of Uses", of the Zoning Ordinance shall be amended to include the land use "Livestock Sales" as a Permitted Use in the CB and HB zoning districts and as a Conditional Use in the RA zoning district.*

*Article 11, "Table of Uses", Section 2, "Table of Uses", of the Zoning Ordinance shall be amended to include the land use "Livestock Sale Barns" as a Permitted Use in the CB zoning district and as a Conditional Use in the RA zoning district.*

*Article 11, "Table of Uses", Section 2, "Table of Uses", of the Zoning Ordinance shall be amended to include the land use "Parts Packaging" as a Permitted Use in the HB and MI zoning districts and as a Conditional Use in the RB zoning district.*

*Article 15, "Nonconforming Uses", of the Zoning Ordinance shall be amended to include the following language as Section 6, which is currently titled as "Reserved":*

#### **Section 6. Grandfathered Automobile Salvage Yards and Junkyards**

Any automobile salvage yard and/or junkyard permitted or registered prior to September 17, 2001, under the provisions of the *Automobile Salvage Yard and Junkyard Ordinance* adopted on August 17, 1992, and any Yard deemed active as of January 1, 2007 by the Board of Commissioners, is hereby grandfathered as a nonconformity under this Ordinance. The list of grandfathered active Yards as of January 1, 2007 shall be kept on file in the Planning and Development Department. Therefore, the continuation of an automobile salvage yard and/or junkyard as a nonconformity and the normal maintenance and repair thereof will still be allowed under this Article and Ordinance. Any proposed altering, expanding, changing, or rebuilding of any automobile salvage yard and/or junkyard shall be subject to Article 16 of this Ordinance; Yards shall not be permitted to utilize the options described in Article 15, Section 4. In addition, the following requirements and guidelines shall be complied with by all grandfathered automobile salvage yards and junkyards within 24 months of notification by the Local Ordinance Officer:

- A. A tax map with ortho photography and additional sheets, as generated by the Local Ordinance Officer, showing and listing the following information:
  1. The shape and dimensions of the property/properties on which the automobile salvage yard and/or junkyard and any building(s) are located along with the North reference and graphic scale;
  2. Tax parcel identification number and total acreage;
  3. Owner's name, address, property address, and telephone number;
  4. The location of all buildings, out buildings, loading areas, places of assembly, outdoor display areas, storage areas (indoor and outdoors) and other facilities associated with the use; existing and proposed, and required setbacks;
  5. The existing use of all buildings and lands, including the extent and location of the Yard;
  6. The location of off-street parking and loading areas and the means of ingress and egress;
  7. The location and type of all required buffers and screening; and
  8. Any other information, which the Local Ordinance Officer may deem necessary for consideration in enforcing all provisions of this Ordinance.
- B. All activities associated with the grandfathered automobile salvage yard/junkyard, including storage areas for automobiles and junk, buildings/structures, parking areas, off-street loading and unloading areas, shall conform with the minimum yard setbacks for the applicable zoning district as found in Article 12 of this Ordinance;

- C. Screening devices shall comply with the requirements found in Article 18, “Buffers and Screening”, Section 3; the screening device shall completely, to the extent reasonably possible, screen all activities associated with the Yard which abut a state maintained road, right-of-way, and/or easement, and any portion of the Yard visible from a residential or non-residential structure. If a vegetative buffer is installed, a security fence may be installed inside of the vegetative buffer at the discretion of the owner/operator. In this situation, the security fence will not be considered part of the required screening device.
- D. Designated parking, off-street loading, and off-street unloading areas shall be provided within the buildable area of the property in question. Only off-street loading/unloading is permitted;
- E. All Yards shall comply with the modified definitions of an Automobile Salvage Yard and Junkyard as found in Article 30;
- F. When constructed, all buildings or structures utilized on the property shall comply with the *North Carolina Building Code*, as amended;
- G. If the ownership of a grandfathered automobile salvage yard or junkyard is transferred to another individual, group, or entity, the new owner(s) shall complete and file a “change of ownership” form with the Local Ordinance Officer; and
- H. The operator/owner of each automobile salvage yard and junkyard grandfathered under this Section will be issued an *Operating Permit* for their respective Yard following the completion of the requirements listed in A-G above. An inspection of the automobile salvage yard/junkyard will be performed annually by the Local Ordinance Officer for continued compliance with the requirements listed in A-G above. The *Operating Permit* for each Yard will be automatically renewed annually after each inspection by the Local Ordinance Officer unless any of the requirements in A-G listed above are not being complied with, and/or if there are any violations found from complaints between annual inspections. If the Local Ordinance Officer finds the Yard is not in compliance, or the yard has had violations of the requirements listed in A-G of this Section, a recommendation will be made to the Planning Board that the renewal of the automobile salvage yard/junkyard’s *Operating Permit* be subject to revocation following a hearing before the Surry County Planning Board.
- I. The Automobile Salvage Yard and Junkyard Ordinance, originally adopted on August 17, 1992, as amended, is hereby repealed.

*Article 16, “Conditional Uses”, Section 8, “Supplemental Requirements for Specific Conditional Uses”, of the Zoning Ordinance shall be amended to include the following language:*

**Livestock Sales; Livestock Sale Barns**

Zoning Districts: RA

Site Standards:

- 1. All structures and associated uses, parking areas, loading areas, storage areas, and outdoor assembly areas shall be setback a minimum of 75-feet from all properties used or zoned for residential or agricultural purposes.
- 2. Considerations shall be made for additional traffic flow from state maintained roads into the site in question, to reduce the possibility of traffic congestion and hazards, if necessary.

Lighting: Outdoor lighting shall be so designed so as to minimize light from directly hitting adjacent property or any public right-of-way.

Screening and Fencing: Buffers shall be installed which meet the requirements of Article 18 (Buffers and Screening) of this Ordinance.

Operational Requirements:

1. The site shall be utilized in a manner that prevents noise and dust from adversely impacting adjacent properties.
2. All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

*Article 16, “Conditional Uses”, Section 8, “Supplemental Requirements for Specific Conditional Uses”, of the Zoning Ordinance shall be amended to include the land use “Parts Packaging” within the supplemental requirements that also address the following land uses: Auction House; Car Wash; Farm Supplies; Gas or Service Station; Machine and Welding Shops; Mini-warehouse; Monument Sales; Motor Vehicle Body and Paint Shop; Motor Vehicle Repair; Restaurant (walk-in); Tree Service. The supplemental requirements read as follows:*

Zoning Districts: RB

Site Standards:

1. Minimum setbacks of twice (2x) what is required by this Ordinance.
2. Site shall not create a greater nuisance than the existing or previous commercial use.
3. Noise created by proposed use shall not be any greater than that which was created by the existing or proposed commercial use.
4. Traffic flow and conditions created by the proposed use shall not be any greater than that created by the existing or previous commercial use.
5. Applicant shall present evidence and support materials to the Planning Board that demonstrate compliance with above requirements (2,3,4).

Lighting: Outdoor lighting shall be so designed so as to minimize light from directly hitting adjacent property or any public right-of-way.

Screening and Fencing: Buffers shall be installed which meet the requirements of Article 18 (Buffers and Screening) of this Ordinance.

*Article 16, “Conditional Uses”, Section 8, “Supplemental Requirements for Specific Conditional Uses”, of the Zoning Ordinance, under the land use “Historic Property Ventures”, Site Standard #1 shall be amended to read as follows:*

1. Structure or property shall be designated an historic property or located in a designated historic district by the State of North Carolina State Historic Preservation Office or the United States Department of the Interior. However, if the property does not meet the criteria as described in the statement above, the Planning Board may still issue a Conditional Use Permit if they find that the property has unmistakable local historic significance following the submittal of conclusive evidence during the public hearing. The Board may seek testimony from local historical societies and historians.

*Article 24 shall be created within the Zoning Ordinance and titled “Water Supply Watershed Protection”, and shall read as follows:*

## **ARTICLE 24. WATER SUPPLY WATERSHED PROTECTION**

### **Section 1. Authority and Enactment**

The Legislature of the State of North Carolina has, in Chapter 153A, Article 6, Section 121, General Ordinance Authority; and in Chapter 143, Article 21, Watershed Protection Rules, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The Surry County Board of Commissioners does hereby ordain and enact into law this Article for the purposes of Watershed Protection within the jurisdiction of Surry County and the Town of Dobson.

### **Section 2. Jurisdiction**

The provisions of this Article shall apply within the areas designated as a Public Water Supply Watershed by the N.C. Environmental Management Commission and their boundary shall be defined and established as a Watershed Overlay Zoning District on the “Official Zoning Map of Surry County, North Carolina” (or the “Zoning Map”), and in Article 9, Section 2 of this Ordinance. The provisions of this Article shall also apply within the land use jurisdiction of the Town of Dobson, as shown on their official zoning map.

### **Section 3. 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 Ordinance amend, modify, or restrict any provisions of the Code of Ordinances of Surry County; however, the adoption of this Article shall and does amend any and all ordinances, resolutions, and regulations in effect in Surry County at the time of the adoption of this Article that may be construed to impair or reduce the effectiveness of this Article 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 this Article 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 Article 30 of this Ordinance, 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.
- D. If a nonconforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this Article, if it is developed for single-family residential purposes. Any lot or parcel created as part of a family subdivision after the effective date of these rules shall be exempt from these rules if it is developed for one single-family detached residence and if it is exempt from the Subdivision Ordinance. Any lot or parcel created as part of any other type of subdivision that is exempt from the Subdivision Ordinance shall be subject to the land use requirements (including impervious surface requirements) of this Article, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.

### **Section 4. Repeal of Previous Watershed Protection Ordinance**

This Article in part carries forward by re-enactment, some of the *Watershed Protection Ordinance of Surry County, North Carolina* (originally adopted by the Board of Commissioners on October 4, 1993 as amended), and it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All provisions of the Watershed Protection Ordinance which are not re-enacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any ordinance provisions heretofore in effect, which are now pending in any court of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this ordinance, but shall be prosecuted to their finality the same as if this ordinance had not been adopted; and any and all violations of the existing Watershed Protection Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this ordinance shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

### **Section 5. Remedies**

In addition to the Remedies found in Article 3 of this Ordinance, 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.

### **Section 6. Severability**

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

## **Section 7. Additional Subdivision Regulations in Watershed Areas**

### **Section 7.1 General Provisions**

- A. No subdivision plat of land within the Public Water Supply Watershed shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this Article. 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 Article.
- B. The approval of a plat does not constitute or effect the acceptance by Surry County or the public of the dedication of any street or other ground, easement, right-of-way, public utility line, or other public facility shown on the plat and shall not be construed to do so.
- C. All subdivisions shall conform to the mapping requirements contained in G.S.47-30.
- D. All subdivisions of land within the jurisdiction of Surry County after the effective date of this ordinance shall require a plat to be prepared, approved, and recorded pursuant to this ordinance.

### **Section 7.2 Subdivision Application and Review Procedures**

- A. All proposed subdivisions shall be reviewed prior to recording with the Register of Deeds by submitting a vicinity map to the Zoning Administrator to determine whether or not the property is located within the designated Public Water Supply Watershed. Subdivisions that are not within the designated watershed area shall not be subject to the provisions of this Article and may be recorded provided the Zoning Administrator initials the vicinity map. In addition, subdivisions within a WS-IV watershed are subject to the provisions of this Article only when an erosion and sedimentation plan is required under the provisions of State law, or approved local program. Subdivisions within the designated watershed area shall comply with the provisions of this Section and all other state and local requirements that may apply.
- B. Subdivision applications shall be filed with the Subdivision Administrator. The application shall include a completed application form, two (2) copies of the plat and supporting documentation deemed necessary by the Zoning Administrator or the Planning Board.
- C. The Zoning Administrator shall review the completed application and shall either approve, approve conditionally or disapprove each application. The Zoning Administrator shall take final action within forty-five (45) days of submission of the application. The Zoning Administrator or the Planning Board may provide public agencies an opportunity to review and make recommendations. However, failure of the agencies to submit their comments and recommendations shall not delay action within the prescribed time limit. Said public agencies may include, but are not limited to, the following:
  - 1. The district highway engineer with regard to proposed streets and highways;
  - 2. The director of the Health Department with regard to proposed private water system or sewer systems normally approved by the Health Department;
  - 3. The state Division of Water Quality with regard to proposed sewer systems normally approved by the Division, engineered storm water controls or storm water management in general; and
  - 4. Any other agency or official designated by the Zoning Administrator or Planning Board.

- D. If the Zoning Administrator approves the application, such approval shall be indicated on both copies of the plat by the following certificate and signed by the Zoning Administrator:

Certificate of Approval for Recording

I certify that the plat shown hereon complies with Article 24, "Watershed Protection", of the Surry County Zoning Ordinance and is approved by the Planning Board for recording in the Register of Deeds office.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Zoning Administrator

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

- E. If the Zoning Administrator disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant. The subdivider may make changes and submit a revised plan which shall constitute a separate request for the purpose of review.
- F. All subdivision plats shall comply with the requirements for recording of the Surry County Register of Deeds.
- G. The plat shall be recorded within fourteen (14) days of approval. The subdivider shall provide the Zoning Administrator with evidence the plat has been recorded with the Register of Deeds within five (5) working days.

**Section 7.3 Subdivision Standards and Required Improvements**

- A. All lots shall provide adequate building space in accordance with the development standards contained in Section 8 of this Article. Lots which are smaller than the minimum required for residential lots may be developed using built-upon area criteria in accordance with Section 8 of this Article.
- B. 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. 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.
- D. 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 by the North Carolina Department of Environment and Natural Resources (NCDENR).
- E. 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 to minimize their impact on water quality.

**Section 7.4 Construction Procedures**

- A. No construction or installation of improvements shall commence in a proposed subdivision until a subdivision plat has been approved.
- B. No building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this Ordinance until all requirements of this Ordinance have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Zoning Administrator to provide for adequate inspection.

## **Section 7.5 Penalties for Transferring Lots in Unapproved Subdivisions in a Public Water Supply Watershed**

Any person who, being the owner or agent of the owner of any land located within the jurisdiction of Surry County, thereafter subdivides his land in violation of this Article or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Article and recorded in the office of the Register of Deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. Surry County may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this Article.

## **Section 8. Development Regulations**

### **Section 8.1 Establishment of Watershed Areas**

The purpose of this Article is to list and describe the watershed areas herein adopted. For purposes of this Article, Surry County is hereby divided into the following watershed areas, as appropriate:

Ararat River Watershed Protected Area – (ARWS-PA) – WS-IV-PA  
Elkin Creek Watershed Balance of Watershed Area – (ECWS-BW) – WS-II-BW  
Fisher River Watershed Critical Area – (FRWS-CA) – WS-II-CA  
Fisher River Watershed Balance of Watershed – (FRWS-BW) – WS-II-BW  
Lovill’s Creek Watershed Protected Area – (LCWS-PA) – WS-IV-PA  
Stewart’s Creek Watershed Critical Area – (SCWS-CA) – WS-IV-CA  
Stewart’s Creek Watershed Protected Area – (SCWS-PA) – WS-IV-PA  
Tom’s Creek Watershed Critical Area – (SCWS-CA) – WS-II-CA  
Tom’s Creek Watershed Balance of Watershed – (TCWS-BW) – WS-II-BW  
Yadkin River Watershed – King – Protected Area – (YRWS-K-PA) – WS-IV-PA

### **Section 8.2 Watershed Areas Described**

A. **Ararat River Watershed Area (ARWS-PA) - Protected Area (WS-IV-PA).** Only new development activities that require an erosion/sedimentation control plan under State law or approved local government program are required to meet the provisions of this Article when located in a WS-IV watershed. In order to accommodate moderate to high land use intensity, single family residential uses shall develop at a maximum of two (2) dwelling units per acre (2 du/ac). All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area. A maximum of three (3) dwelling units per acre (3 du/ac) or thirty-six (36%) percent built-upon area is allowed for projects without a curb and gutter street system.

1. Allowed Uses:

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

2. Density and Built-upon Limits:

- a. 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 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.

- b. 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.
- c. In addition to the development allowed under paragraphs (a) and (b) above, new development and expansions to existing development may occupy up to ten percent (10%) of the protected area with up to seventy percent (70%) built-upon area on a project by project basis, when approved as a special intensity allocation (SIA). The Watershed Administrator is authorized to approve SIA's consistent with the provisions of this ordinance. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate *Best Management Practices* to minimize water quality impacts. 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.

**B. Elkin Creek Watershed Area (ECWS-BW) - Balance of Watershed (WS-II-BW).** In order to maintain predominantly undeveloped land use intensity, single family residential uses shall be allowed at a maximum of one dwelling unit per acre (1 du/ac). All other residential and non residential development shall be allowed a maximum of twelve percent built-upon area. In addition, new development may occupy ten percent (10%) of the watershed area\_which is outside the critical area, with seventy percent (70%) built-upon area when approved as a special intensity allocation (SIA). The Zoning Administrator is authorized to approve SIA's consistent with the provisions of this ordinance. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate *Best Management Practices* to minimize water quality impacts. Non-discharging landfills and residuals application sites are allowed.

1. Allowed Uses:

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

2. Density and Built-upon Limits:

- a. Single Family Residential--development shall not exceed one dwelling unit per acre (1\_du/ac) on a project by project basis. 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.
- b. 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. 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.

**C. Fisher River Watershed Area (FRWS-CA) - Critical Area (WS-II-CA).** In order to maintain a predominately undeveloped land use intensity pattern, single family residential uses shall be allowed at a maximum of one dwelling unit per two acres. All other residential and non-residential development shall be allowed at a maximum six percent (6%) built-upon area. New residuals\_application sites and landfills are specifically prohibited.

1. Allowed Uses:

- a. 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.
- b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).
- c. Residential development.
- d. Non-residential development, excluding: 1) landfills and 2) sites for land application of residuals or petroleum contaminated soils.

2. 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 (2) acres [80,000 square feet excluding roadway right-of-way], except within an approved cluster development.
- b. 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.

**D. Fisher River Watershed Area (FRWS-BW) - Balance of Watershed (WS-II-BW).** In order to maintain predominantly undeveloped land use intensity, single family residential uses shall be allowed at a maximum of one dwelling unit per acre (1 du/ac). All other residential and non residential development shall be allowed a maximum of twelve percent built-upon area. In addition, new development may occupy ten percent (10%) of the watershed area\_which is outside the critical area, with seventy percent (70%) built-upon area when approved as a special intensity allocation (SIA). The Zoning Administrator is authorized to approve SIA's consistent with the provisions of this ordinance. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate *Best Management Practices* to minimize water quality impacts. Non-discharging landfills and residuals application sites are allowed.

1. Allowed Uses:

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

2. Density and Built-upon Limits:
  - a. Single Family Residential--development shall not exceed one dwelling unit per acre (1\_du/ac) on a project by project basis. 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.
  - b. 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. 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.

**E. Lovill's Creek Watershed Area (LCWS-PA) - Protected Area (WS-IV-PA).** Only new development activities that require an erosion/sedimentation control plan under State law or approved local government program are required to meet the provisions of this ordinance when located in a WS-IV watershed. In order to accommodate moderate to high land use intensity, single family residential uses shall develop at a maximum of two (2) dwelling units per acre (2 du/ac). All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area. A maximum of three (3) dwelling units per acre (3 du/ac) or thirty-six (36%) percent built-upon area is allowed for projects without a curb and gutter street system.

1. Allowed Uses:
  - a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
  - b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
  - c. Residential development.
  - d. Non-residential development.
2. Density and Built-upon Limits:
  - a. 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 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.
  - b. 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.
  - c. In addition to the development allowed under paragraphs (a) and (b) above, new development and expansions to existing development may occupy up to ten percent (10%) of the protected area with up to seventy percent (70%) built-upon area on a project by project basis, when approved as a special intensity allocation (SIA). The Watershed Administrator is authorized to approve SIA's consistent with the provisions of this ordinance. Projects must, to the maximum

extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate *Best Management Practices* to minimize water quality impacts. 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.

**F. Stewart's Creek Watershed Area (SCWS-CA) - Critical Area (WS-IV-CA).** Only new development activities that require an erosion/sedimentation control plan under State law or approved local program are required to meet the provisions of this ordinance when located in a WS-IV watershed. In order to address a moderate to high land use intensity pattern, single family residential uses are allowed at a maximum of two (2) dwelling units per acre. All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area. New residuals application sites and landfills are specifically prohibited.

1. Allowed Uses:

- a. 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.
- b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
- c. Residential.
- d. Non-residential development, excluding: 1) landfills and 2) sites for land application of residuals or petroleum contaminated soils.

2. Density and Built-upon Limits:

- a. Single Family Residential--development shall not exceed two dwelling units per acre on a project by project basis. 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.
- b. 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.

**G. Stewart's Creek Watershed Area (SCWS-PA) - Protected Area (WS-IV-PA).** Only new development activities that require an erosion/sedimentation control plan under State law or approved local government program are required to meet the provisions of this ordinance when located in a WS-IV watershed. In order to accommodate moderate to high land use intensity, single family residential uses shall develop at a maximum of two (2) dwelling units per acre (2 du/ac). All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area. A maximum of three (3) dwelling units per acre (3 du/ac) or thirty-six (36%) percent built-upon area is allowed for projects without a curb and gutter street system.

1. Allowed Uses:

- a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).

- c. Residential development.
- d. Non-residential development.

2. Density and Built-upon Limits:

- a. 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 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.
- b. 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.
- c. In addition to the development allowed under paragraphs (a) and (b) above, new development and expansions to existing development may occupy up to ten percent (10%) of the protected area with up to seventy percent (70%) built-upon area on a project by project basis, when approved as a special intensity allocation (SIA). The Watershed Administrator is authorized to approve SIA's consistent with the provisions of this ordinance. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate *Best Management Practices* to minimize water quality impacts. 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.

**H. Tom's Creek Watershed Area (TCWS-CA) - Critical Area (WS-II-CA).** In order to maintain a predominately undeveloped land use intensity pattern, single family residential uses shall be allowed at a maximum of one dwelling unit per two acres. All other residential and non-residential development shall be allowed at a maximum six percent (6%) built-upon area. New residuals\_application sites and landfills are specifically prohibited.

1. Allowed Uses:

- a. 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.
- b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).
- c. Residential development.
- d. Non-residential development, excluding: 1) landfills and 2) sites for land application of residuals or petroleum contaminated soils.

2. 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 (2) acres [80,000 square feet excluding roadway right-of-way], except within an approved cluster development.
- b. 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.

**I. Tom's Creek Watershed Area (TCWS-BW) - Balance of Watershed (WS-II-BW).**

In order to maintain predominantly undeveloped land use intensity, single family residential uses shall be allowed at a maximum of one dwelling unit per acre (1 du/ac). All other residential and non residential development shall be allowed a maximum of twelve percent built-upon area. In addition, new development may occupy ten percent (10%) of the watershed area\_which is outside the critical area, with seventy percent (70%) built-upon area when approved as a special intensity allocation (SIA). The Zoning Administrator is authorized to approve SIA's consistent with the provisions of this ordinance. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate *Best Management Practices* to minimize water quality impacts. Non-discharging landfills and residuals application sites are allowed.

1. Allowed Uses:

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

2. Density and Built-upon Limits:

- a. Single Family Residential--development shall not exceed one dwelling unit per acre (1\_du/ac) on a project by project basis. 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.
- b. 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. 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.

**K. Yadkin River Watershed Area - King (YRWS-K-PA) - Protected Area (WS-IV-PA).**

Only new development activities that require an erosion/sedimentation control plan under State law or approved local government program are required to meet the provisions of this ordinance when located in a WS-IV watershed. In order to accommodate moderate to high land use intensity, single family residential uses shall develop at a maximum of two (2) dwelling units per acre (2 du/ac). All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area. A maximum of three (3) dwelling units per acre (3 du/ac) or thirty-six (36%) percent built-upon area is allowed for projects without a curb and gutter street system.

1. Allowed Uses:

- a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.

- b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
  - c. Residential development.
  - d. Non-residential development.
2. Density and Built-upon Limits:
- a. 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 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.
  - b. 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.
  - c. In addition to the development allowed under paragraphs (a) and (b) above, new development and expansions to existing development may occupy up to ten percent (10%) of the protected area with up to seventy percent (70%) built-upon area on a project by project basis, when approved as a special intensity allocation (SIA). The Zoning Administrator is authorized to approve SIA's consistent with the provisions of this ordinance. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate *Best Management Practices* to minimize water quality impacts. 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 8.3 Cluster Development**

Cluster development is allowed in all 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 Section 8 of this Article. 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.
- B. 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.
- C. Areas of concentrated density development shall be located in upland area and away, to the maximum extent practicable, from surface waters and drainage ways.
- D. The remainder of the tract shall remain in a vegetated or natural state. 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. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.
- E. Cluster developments that meet the applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

## **Section 8.4 Buffer Area Requirements in Watershed Areas**

- A. A minimum one-hundred (100) foot undisturbed natural buffer from each shoreline is required for all new development activities that exceed the low density option. However, a minimum fifty (50) foot undisturbed natural buffer from each shoreline for all 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, as is required in Article 18, Section 2, of this Ordinance, regardless of the density option chosen. Desirable artificial streambank or shoreline stabilization is permitted.
- B. No new development is allowed in the 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*.

## **Section 8.5 Rules Governing the Interpretation of Watershed Area Boundaries**

See Article 7, Section 3 of this Ordinance for rules governing the interpretation of boundaries on the “Official Zoning Map”.

## **Section 8.6 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 Article shall be included in the area required for another building.
- C. 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.

## **Section 8.7 Existing Development**

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 Article; however, the built-upon area of the existing development is not required to be included in the built-upon area calculations.

- A. Uses of Land. This category consists of uses existing at the time of adoption of this Article 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, unless allowed under the provisions of Article 15 of this Ordinance.
- B. Reconstruction of Buildings or Built-upon Areas. Any existing building or built-upon area 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:
  - 1. Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage; and

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.

### **Section 8.8 Watershed Protection Permit**

- A. Except where a single family residence is constructed on a lot deeded prior to the effective date of this Article, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Zoning Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this Article and Ordinance.
- B. Watershed Protection Permit applications shall be filed with the Zoning Administrator. The application shall include a completed application form and supporting documentation deemed necessary by the Zoning Administrator.
- C. Prior to issuance of a Watershed Protection Permit, the Zoning Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this Article.
- D. A Watershed Protection Permit shall expire if a Building Permit or Watershed Protection Occupancy Permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

### **Section 8.9 Building Permit Required**

No permit required under the North Carolina State Building Code shall be issued for any activity for which a Watershed Protection Permit is required until that permit has been issued.

### **Section 8.10 Watershed Protection Occupancy Permit**

- A. The Zoning Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this Article 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 concurrently with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) days following the erection or structural alterations of the building.
- C. When only a change in the use of land or existing building occurs, the Zoning Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this Article have been met coincident with the Watershed Protection Permit.
- D. If the Watershed Protection Occupancy Permit is denied, the Zoning 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 Zoning Administrator has approved and issued a Watershed Protection Occupancy Permit.

## **Section 9. Public Health Regulations**

### **Section 9.1 Public Health, in general**

No activity, situation, structure, or land use shall be allowed within a watershed area 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 improper management of stormwater runoff; or any

other situation found to pose a threat to water quality.

## **Section 9.2 Abatement**

- A. The Zoning Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
- B. The Zoning Administrator shall report all findings to the Planning Board. The Zoning Administrator may consult with any public agency or official and request recommendations.
- C. Where the Planning 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.

## **Section 10. Administration, Enforcement, and Appeals**

### **Section 10.1 Zoning Administrator Duties for Watershed Protection**

It shall be the duty of the Zoning Administrator to administer and enforce the provisions of this Article as follows:

- A. The Zoning 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 Zoning Administrator shall serve as clerk to the Planning Board;
- C. The Zoning 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 Water Quality Section of the Division of Water Quality;
- D. The Zoning Administrator shall keep records of the jurisdiction's use of the provision that a maximum of ten percent (10%) of the non-critical area of WS-II and WS-III watersheds and, for local governments that do not choose to incorporate the high density option, ten percent (10%) of the protected area of WS-IV watersheds may be developed with new development at a maximum of seventy percent (70%) built-upon surface area. Records for each watershed shall include the total acres of non-critical 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, number of developed acres, type of land use and stormwater management plan (if applicable);
- E. The Zoning Administrator is granted the authority to administer and enforce the provisions of this Article, exercising in the fulfillment of his responsibility the full police power of Surry County. The Zoning 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 Article; and
- F. The Zoning Administrator shall keep a record of variances to this Article. This record shall be submitted for each calendar year to the Water Quality Section of the Division of Environmental Management on or before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

### **Section 10.2 Appeal from the Zoning Administrator**

Any order, requirement, decision or determination made by the Zoning Administrator may be appealed to and decided by the Board of Adjustment as described in Article 5 of this Ordinance.

### **Section 10.3 Changes and Amendments to this Article**

In addition to the requirements of Article 4 of this Ordinance, under no circumstances shall the Board of Commissioners adopt such amendments, supplements, or changes that would cause this Article 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 Water Quality, N.C. Division of Environmental Health, and the N.C. Division of Community Assistance.

#### **Section 10.4 Environmental Management Commission Review of Variances**

If a variance application is submitted, and if following a public hearing the Board of Adjustment concurs that it is in favor of granting the variance, the Board shall prepare a preliminary record of the hearing for the Environmental Management Commission with all deliberate speed prior to holding a vote. 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; and
- f. 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 and a decision as follows, which the Board of Adjustment shall adhere to:

- a. If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.
- b. If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed.

*Article 30, "Definitions", Section 1, "Definitions", of the Zoning Ordinance shall be amended to include the following language:*

**AGRILCULTURAL USE (WATERSHED PROTECTION AREA ONLY).** The use of waters for stock watering, irrigation, and other farm purposes.

**AUTOMOBILE SALVAGE YARD.** Any establishment which is maintained, used, or operated for storing, keeping, buying and/or selling two or more wrecked, junked, scrapped, ruined, dismantled or inoperable motor vehicles, regardless of the length of time which individual motor vehicles are stored or kept at said establishment. Parts and components of the vehicles in an Automobile Salvage Yard may be sold off as replacement parts to willing customers. (May also be identified as Auto Salvage Yard).

**BEST MANAGEMENT PRACTICES (BMP).** A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

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

**CLUSTER DEVELOPMENT.** Cluster development means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential and multi-family developments. For the purpose of this ordinance, planned unit developments and mixed use development are considered as cluster development.

**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.

**DWELLING UNIT.** A building, or portion thereof, that provides 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:

- (1) 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
- (2) having an outstanding valid building permit as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1), or
- (3) having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1).

**EXISTING LOT (LOT OF RECORD).** A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this Ordinance.

**FAMILY SUBDIVISION.** Family subdivision means a division of a tract of land: (a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives as a gift or for nominal consideration, but only if no more than one parcel is conveyed by the grantor from the tract to any one relative; or (b) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.

**HISTORIC PROPERTY VENTURES.** Retail and service uses utilized in conjunction with an established historic property or historic district, as designated by the North Carolina State Historic Preservation Office or the United States Department of the Interior, or as determined by the Planning Board consistent with the criteria in Article 16, Section 8 of this Ordinance.

**INDUSTRIAL DEVELOPMENT (WATERSHED PROTECTION AREA ONLY).** 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.

**JUNKYARD.** Any open area which is maintained, operated, or used for storing, keeping, salvaging, abandoning, buying or selling junk regardless of length of time that junk is stored or kept but shall not include County operated facilities.

**LANDFILL (WATERSHED PROTECTION AREA ONLY).** 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 VARIANCE (WATERSHED PROTECTION AREA ONLY).** A variance from the minimum statewide watershed protection rules that results in any one or more of the following:

- (1) the relaxation, by a factor greater than ten (10) percent, of any management requirement under the low density option;
- (2) the relaxation, by a factor greater than five (5) percent, of any buffer, density or built-upon area requirement under the high density option;
- (3) any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system.

**MINOR VARIANCE (WATERSHED PROTECTION AREA ONLY).** A variance from the minimum statewide watershed protection rules that result in a relaxation, by a factor of up to five (5) percent of any buffer, density or built-upon area requirement under the high density option; or that results in a relaxation, by a factor of up to ten (10) percent, of any management requirement under the low density option.

**NONCONFORMING LOT OF RECORD.** A lot described by a plat or a deed that was recorded prior to the effective date of local watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of this Ordinance.

**NON-RESIDENTIAL DEVELOPMENT.** All development other than residential development, agriculture and silviculture. May also be spelled as “Nonresidential Development” within this Ordinance.

**PROTECTED AREA.** The area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

**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.

**RESIDUALS.** Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the Environmental Management Commission.

**SINGLE-FAMILY RESIDENTIAL.** Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.

**SUBDIVIDER.** Any person, firm or corporation who subdivides or develops any land

deemed to be a subdivision as herein defined.

**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 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.)