

# *Vance County*

## **Planning & Development**



## ***Watershed Protection Ordinance***

**1994 Edition**

**VANCE COUNTY**  
**WATER SUPPLY WATERSHED**  
**MANAGEMENT AND PROTECTION**

**ADOPTED**  
**DECEMBER 6, 1993**

**EFFECTIVE**  
**JANUARY 1, 1994**

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# **WATERSHED PROTECTION ORDINANCE OF VANCE COUNTY**

## **ARTICLE 100: AUTHORITY AND GENERAL REGULATIONS**

### **Section 101. Authority and Enactment.**

- (A) 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.
- (B) The Vance County Board of Commissioners does hereby ordain and enact into law the following articles as The Watershed Protection Ordinance of Vance County.

### **Section 102. Title**

This ordinance shall be known as the Watershed Protection Ordinance of Vance County, North Carolina, and may be referred to as the Watershed Ordinance.

### **Section 103. Jurisdiction.**

The provisions of this Ordinance shall apply within the 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 Vance County, North Carolina" ("the Watershed Map"), which is adopted simultaneously herewith. The Watershed Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance. This Ordinance shall be permanently kept on file in the office of the Vance County Clerk.

### **Section 104. 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:

- (A) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or center lines thereof, such lines shall be construed to be the boundaries.
- (B) Where area boundaries are indicated as approximately following lot lines, the lot lines shall be construed to be said boundaries.
- (C) 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.
- (D) 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.
- (E) A surveyed plat prepared by a registered land surveyor may be submitted to the County as evidence that one or more properties along these boundaries do not lie within the watershed area.
- (F) 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.

### **Section 105. Application of Regulations**

- (A) No transfer of land, by deed, bill of sale, contract or other conveyance document shall be filed with the Register of Deeds until it has been approved in accordance with the provisions of this article and in conformity with the regulations herein specified for the watershed area in which the land is located.
- (B) 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 is located.
- (C) No area required for the purpose of complying with the provisions of this ordinance shall be included in the area required for another building.
- (D) 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 206.
- (E) 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 106. 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 Vance County; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the county at the time of adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this 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 ordinance, is not subject to the requirements of this ordinance. 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.
- (D) A pre-existing lot of record owned by a person prior to the effective date of this ordinance, 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 ordinance; except if a nonconforming lot is contiguous to another nonconforming lot or lots, the lots shall be combined in order to make a conforming lot or one that is more conforming than each lot individually.

### **Section 107. Prohibiting the recording of an unapproved lot.**

No person, being the owner or agent of the owner of any land within the jurisdiction of Vance County, may create or record a lot(s) at the office of the Register of Deeds for land within a public supply watershed before that lot(s) has been reviewed and approved under the regulations of this ordinance.

### **Section 108. 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. The 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 toxic and hazardous materials; the improper management of storm water runoff; or any other situation found to pose a threat to water quality.

#### **Section 109. Abatement.**

- (A) The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
- (B) 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.
- (C) 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.

#### **Section 110. Criminal Penalties**

Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with NCGS 14-4. The maximum fine for each offense shall not exceed \$500.00. Each day that the violation continues shall constitute a separate offense.

#### **Section 111. Remedies.**

- (A) If any subdivision, development and/or land use is found to be in violation of this Ordinance, the Vance County Board of Commissioners may, in addition to all other remedies available either in law or in equity institute:
  - (1) A civil penalty in the amount of \$500
  - (2) Action or proceedings to restrain, correct, or abate the violation
  - (3) Action to prevent occupancy of the building, structure, or land
  - (4) Action to prevent any illegal act, conduct, business, or use in or about the premises.
- (B) 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.
- (C) If the Watershed Administrator finds that any of the provisions of this ordinance are being violated, he shall:
  - (1) Notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it.
  - (2) Order discontinuance of the illegal use of land, buildings or structures
  - (3) Order removal of illegal buildings or structures, or of additions, alterations or structural changes thereto
  - (4) Order discontinuance of any illegal work being done
  - (5) Or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provision.

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

#### **Section 112. 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.

### **Section 113. Severability.**

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

### **Section 114. Effective Date.**

This Ordinance shall take effect and be in force on January 1, 1994.

## **ARTICLE 200: DEVELOPMENT REGULATIONS**

### **Section 201. Establishment of Watershed Areas.**

(A) The purpose of this Article is to list and describe the watershed areas herein adopted.

(B) For purposes of this ordinance the County hereby divided into the following area(s), as appropriate:

- (1) WS-III-CA (Critical Areas)
- (2) WS-III-BW (Balance of Watershed)
- (3) WS-IV-PA (Protected Areas)

RESERVED:

- (1) WS-I
- (2) WS-II-CA (Critical Area)
- (3) WS-II-BW (Balance of Watershed)
- (4) WS-IV-CA (Critical Area)

### **Section 202. Watershed Areas Described.**

(A) *WS-I Watershed Areas - Reserved.*

(B) *WS-II Watershed Areas - Critical Area (WS-II-CA) – Reserved*

(C) *WS-II Watershed Areas - Balance of Watershed (WS-II-BW) – Reserved*

(D) *WS-III Watershed Areas - Critical Area (WS-III-CA).*

- (1) In order to maintain a low to moderate land use intensity pattern, single family residential uses are allowed at a maximum of one (1) dwelling unit per acre. All residential, other than single family residential and non-residential development shall be allowed to a



maximum of twelve percent (12%) built-upon area. New sludge application sites and landfills are specifically prohibited.

(2) 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. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Vance County Soil and Water Conservation Commission, 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. Animals operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by 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). The Division of Forest Resources - Vance County Forestry Office is the designated management agency responsible for implementing the provisions pertaining to silviculture activities.
- c. Residential.
- d. Non-residential development, excluding:
  1. The manufacture of toxic or hazardous materials or manufacturing where a by-product of the process is a toxin or hazardous material, storage of toxic and hazardous materials unless a spill containment plan is implemented,
  2. Landfills, and
  3. Sites for land application of residuals or petroleum contaminated soils.

New industrial development is required to incorporate adequately designed, constructed and maintained spill containment structures if hazardous materials are either used or stored on the premises.

(3) 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 Residential, other than single family 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.

(E) *WS-III Watershed Areas - Balance of Watershed (WS-III-BW).*

- (1) In order to maintain a low to moderate land use intensity pattern, single family detached uses shall develop with a minimum lot size of 35,000 square feet, where a larger size may be required by the Vance County Health Department, in accordance with "Laws and Rules for Sewage Treatment and Disposal Systems", North Carolina Department of Environment, Health, and Natural Resources, Division of Environmental Health, On-Site Wastewater Section".
- (2) All residential, other than single family residential, and non-residential development shall

be allowed a maximum of twenty-four percent (24%) built-upon area.

(3) In addition, non-residential uses may occupy ten percent (10%) of the watershed with up to seventy percent (70%) built upon area when approved as a Special Nonresidential Intensity Allocation (SNIA) as provided for in Section 203.

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

(5) 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. The Vance County Soil and Water Conservation Commission is the designated agency responsible for implementing the provisions pertaining to Agriculture.
- b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209). The Division of Forest Resources - Vance County Forestry Office is the designated management agency responsible for implementing the provisions pertaining to silviculture activities.
- c. Residential development.
- d. Non-residential development excluding discharging landfills and the storage of toxic and hazardous materials unless a spill containment plan is implemented.

(6) Density and Built-upon Limits:

- a. Single Family Residential-no residential lot shall be less than 35,000 square feet, where a larger size may be required by the Vance County Health department, in accordance with "Laws and Rules for Sewage Treatment and Disposal Systems", North Carolina Department of Environment, Health, and Natural Resources, Division of Environmental Health, On-Site Wastewater Section" or except within an approved cluster development.
- b. All Residential, other than single family residential, and Non-residential development shall not exceed twenty-four (24%) built upon area on a project by project basis, except non-residential uses may occupy ten percent (10%) of the balance of the watershed with up to seventy-percent (70%) built upon area on a project by project basis when approved as a Special Non-residential Intensity Allocation as provided for in Section 203. For the purpose of calculation built upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(F) *WS-IV Watershed Areas - Critical Area (WS-IV-CA) - Reserved*

(G) *WS-IV Watershed Areas - Protected Area (WS-IV-PA).*

(1) In order to address a moderate to high land use intensity pattern, single family residential uses shall develop with a minimum lot size of 35,000 square feet, where a larger size may be required by the Vance County Health Department, in accordance with "Laws and Rules for Sewage Treatment and Disposal Systems", North Carolina Department of Environment, Health and Natural Resources, Division of Environmental Health, On-Site Wastewater Section" or within an approved cluster development.

(2) All residential, other than single family residential, and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area or thirty-six (36%) percent built-upon area is allowed for projects without a curb and gutter street system.

(3) In addition, non-residential uses may occupy ten percent (10%) of the watershed with up to seventy (70%) built upon area when approved as Special Nonresidential Intensity allocation (SNIA) as provided for in section 203.

(4) Uses Allowed:

- a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. The Vance County Soil and Water Conservation Commission is the designated agency responsible for implementing the provisions pertaining to Agriculture.
- b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209). The Division of Forest Resources - Vance County Forestry Office is the designated management agency responsible for implementing the provisions pertaining to silviculture activities.
- c. Residential development.
- d. Non-residential development, excluding the storage of toxic and hazardous materials unless a spill containment plan is implemented.

(5) Density and Built-upon Limits:

- a. For single Family Residential-no residential lot shall be less than 35,000 square feet, where a larger size may be required by the Vance County Health department, in accordance with "Laws and Rules for Sewage Treatment and Disposal Systems", North Carolina Department of Environment, Health, On-Site Wastewater Section" or except within an approved cluster development.
- b. All residential, other than single family residential and Non-residential development shall not exceed twenty-four (24%) built upon area on a project by project basis, except non-residential uses may occupy ten percent (10%) of the balance of the watershed with up to seventy (70%) Percent built upon area in a project by project basis when approved for in Section 203. 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 calculation built upon area, total project area shall include total acreage in the tract on which the project is to be developed.

### **Section 203. Special Non-residential Intensity Allocations (SNIA)**

(A) *Applicability*

- (1) A maximum of ten percent (10%) of each jurisdiction's portion of the watershed, outside of the critical area may be developed with new non-residential development projects of up to 70% built upon surface area. All developments awarded SNIA, must to the extent practical, maximize built upon surface area, direct storm water runoff away from surface waters and incorporate best management practices to minimize water quality impacts. SNIAs are applicable in the WS-III and the WS-IV classifications.
- (2) The Vance County Board of Commissioners with the recommendation of the Watershed Board is authorized to approve SNIAs consistent with the provisions of this ordinance. Awards of SNIA must comply with the current allocation strategy adopted by the Vance County Board of Commissioners.

(B) *Submittal Process.* Projects may be submitted to the Watershed Administrator for consideration by the Watershed Review Board for a Special Non-residential intensity Allocation (SNIA). The

submittal shall consist of the site development plan and a written request stating the allowed built-upon area, the proposed built-upon area (not more than 70%) and an explanation justifying the requested increase. This justification shall relate to the SNIA Allocation Strategy adopted by the Board of Commissioners. Other criteria will not be considered.

(C) *Review Process.*

- (1) The Watershed Administrator will route the request to all relevant internal departments, external agencies and to the Corps of Engineers for review, comments and recommendations.
- (2) The Watershed Administrator will prepare a synopsis of the project and an analysis of the project in relationship to the Allocation Strategy. The Watershed Administrator will forward the site plan, written request, the synopsis, the analysis, the comments and recommendation to the Watershed Review Board approximately 2 weeks prior to the meeting when it will consider the project for a SNIA. The applicant will be sent notification of the time, date and location of the meeting at the same time.
- (3) The Watershed Review Board will consider the project, the allocation criteria and formulate a recommendation to the Vance County Board of Commissioners. The Watershed Administrator will forward all materials, including the site plan, the written request, the synopsis, the analysis, the comments, recommendations to the Board of Commissioners for their decision.

(D) *Allocation Strategy*

- (1) The Board of Commissioners shall develop a SNIA Allocation Strategy.
- (2) The strategy shall be reviewed on an annual basis.
- (3) The strategy shall not be changed or established for a single development. Awards of SNIA must comply with the current strategy adopted by the Vance County Board of Commissioners.

## **Section 204. 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 302. Built-upon area or storm water control requirements of the project shall not exceed that allowed for the critical area or balance of watershed, whichever applies.
- (B) All built-upon areas shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated storm water 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.

## **Section 205. Buffer Areas Required.**

- (A) A minimum thirty (30) foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.

- (B) 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 works projects such as road crossings and green ways where no practical alternatives exists. These activities should minimize built upon surface area, direct runoff away from the surface waters and maximize the utilization of storm water best management practices.
- (C) All required buffer areas shall be shown as a permanent restriction or easement on the deeds, titles, subdivision plats, development plans and individual plot plans where the buffer area lies within the boundary described or shown.

## **Section 206. Existing Development**

- (A) Any existing development as defined in this ordinance may be continued and maintained subject to the provisions provided herein.
- (B) 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 calculation.

### *(1) Vacant Lots.*

- a. This category consists of vacant lots for which plats or deeds have been recorded in the office of the Register of Deeds of Vance County.
- b. Lots may be used for any of the uses allowed in the watershed area in which it is located, provided where the lot area is below the minimum specified in this ordinance the Watershed Administrator is authorized to issue a watershed protection permit.

### *(2) Occupied Lots.*

- a. This category consists of lots, occupied for residential purposes at the time of the adoption of this ordinance.
- b. These lots may continue to be used.

### *(3) Non-conforming Uses of Land.*

- a. This category consists of uses, existing at the time of adoption of this ordinance, where the use of the land is not permitted to be established hereafter in the watershed area in which it is located.
- b. The uses may be continued except as follows:
  - 1. When the use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
  - 2. The use of land shall be changed only to an allowed use; and
  - 3. When the use ceases for a period of at least one year, it shall not be reestablished.

- (C) Any existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or reconstructed, provided:

- (1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage. There are no time restrictions on single family residential development.

- (2) The total amount of space devoted to built-upon area may not be increased unless storm water control that equals or exceeds the previous development is provided. There is no restriction on single family residential development.

#### **Section 207. Watershed Protection Approval**

- (A) Except where a single family residence is constructed on a lot deeded prior to the effective date of this ordinance, 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 Watershed Protection Approval has been given by the Watershed Administrator. No Watershed Protection Approval shall be issued except in conformity with the provisions of this ordinance.
- (B) An application shall be filed with the Watershed Administrator requesting watershed protection approval. The application shall include a completed application form, a site development plan or subdivision plat and other supporting documentation deemed necessary by the Watershed Administrator.
- (C) The Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance, prior to issuance of Watershed Protection Approval.
- (D) Watershed protection approval shall be site and plan specific. The approval may not be transferred to another site or to any other plan. Any revisions, modification or alterations to the plan must be resubmitted, reviewed and reconsidered for approval. Watershed Protection Approval shall not be construed as a building permit nor does it alter any other requirements of the county, state or federal government.

#### **Section 208. Building Permit Required**

Except for a single family residence constructed on a lot deeded prior to the effective date of this ordinance, no permit required under the North Carolina State Building Code shall be issued for any activity for which watershed protection approval is required until that approval has been granted.

#### **Section 209. Watershed Protection Occupancy Approval**

- (A) The Watershed Administrator shall issue watershed protection occupancy approval 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) Watershed protection occupancy approval, either for the whole or part of a building, shall be applied for coincident with the application for a watershed protection approval and shall be granted or denied within ten (10) 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 watershed protection occupancy approval certifying that all requirements of this ordinance have been met coincident with the watershed protection approval.
- (D) If watershed protection occupancy approval 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 granted a watershed protection occupancy approval.

## **ARTICLE 300: SUBDIVISION REGULATIONS.**

Note: Provisions in this Article are derived in part from statutory authority Chapter [153A], Article[18], Part [2]

### **Section 301. 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 the 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 with the mapping requirements contained in G.S. 47-30.
- (D) All subdivisions of land within the jurisdiction of Vance County after the effective date of this ordinance shall require a plat to be prepared, approved, and recorded pursuant to this ordinance.

### **Section 302. Subdivision Application and Review Procedures.**

- (A) (1) All proposed subdivisions shall be reviewed prior to recording with the Register of Deeds by submitting a vicinity map with tax parcel numbers to the Watershed 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 provision of this ordinance. The Watershed Administrator shall attach a certification that the land specified does not lie within a public supply watershed.  
  
(2) Subdivisions within the designated watershed area shall comply with the provisions of this article and all other state and local requirements that may apply.
- (B) Subdivision applications shall be filed with the Watershed Administrator. The application shall include a completed application form, ten (10) copies of the plat and supporting documentation deemed necessary by the Watershed Administrator or the Watershed Review Board.
- (C) The Watershed Administrator shall review the completed application and approve, approve conditionally or disapprove each application. The Watershed Administrator shall take final action within forty-five (45) days of its submission of application. The Watershed Administrator or the 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. These public agencies may include, but are not limited to the following:
  - (1) The North Carolina Department of Transportation District Highway Engineer with regard to proposed streets and highways.
  - (2) The director of the Vance County Health Department with regard to proposed private water system or sewer systems normally approved by the Health Department.
  - (3) The state Division of Environmental Management with regard to proposed sewer systems normally approved by the Division, engineered storm water controls or storm water management in general.
  - (4) Any other agency or official designated by the Watershed Administrator or Watershed Review Board.

- (D) If the Watershed Review Administrator 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**

WATERSHED DETERMINATION: (Use only if applicable)

The proposed development is located in the (Tar River or Anderson Creek) Water Supply Watershed Protection Area and individual lots are required to comply with watershed regulations. The reduction of lot sizes or change in use shall require additional approvals in compliance with Water Supply Watershed Protection Regulations.

I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved for recording in the Register of Deeds office.

\_\_\_\_\_  
Watershed Administrator

\_\_\_\_\_  
Date

(Use for residential, other than single family development, and all non-residential development, when project is located in a Water Supply Watershed Protection Area)

Watershed Determination:

All or portions of lots \_\_\_\_\_ (list) are located within the \_\_\_\_\_ (specify) Water Supply Watershed Protection Area. Specific Site Plan Approval shall be required for all residential, other than single family residential, and all non-residential development. Any additional structures, pavement or other land coverage, change in the lot size or change in the use of the land shall require specific review and approval.

I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved for recording in the Register of Deeds office.

\_\_\_\_\_  
Watershed Administrator

\_\_\_\_\_  
Date

- (E) If the Watershed Administrator disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant and entered in the minutes. 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 County Register of Deeds.

**Section 303. Subdivision Standards and Required Improvements.**

- (A) *Size Standards.*
- (1) All lots shall provide adequate building space in accordance with the development standards contained in Article 200.
  - (2) Lots which are smaller than the minimum required for residential lots shall be identified on the plat as to their specific purpose and use, including restrictions if applicable.
- (B) *Area Calculation.* For the purpose of calculating built-upon areas, total project area shall include total acreage in the tract on which the project is to be developed.
- (C) *Stormwater Drainage Facilities.*
- (1) The application shall be accompanied by a description of the proposed method of



providing storm water drainage.

- (2) The subdivider shall provide a drainage system that diverts storm water 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 Sedimentation and Erosion Control Plan that has been submitted to and approved by the N. C. Division of Land Quality.

(E) *Roads constructed in critical areas and watershed buffer areas.*

- (1) Where possible, roads should be located outside of critical areas and watershed buffer areas.

- (2) Roads constructed within these areas shall be designed and constructed so to minimize their impact on water quality.

#### **Section 304. Construction Procedures.**

(A) No construction or installation of improvements shall commence in a proposed subdivision until a subdivision plat has been approved by the Watershed Review Board.

(B) (1) 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.

(2) The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Watershed Administrator to provide for adequate inspection.

#### **Section 305. Penalties for Transferring Lots in Unapproved Subdivisions.**

(A) Any person who, being the owner or agent of the owner of any land located within the jurisdiction of Vance County, thereafter subdivides his land in violation of this ordinance 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 ordinance and recorded in the office of the register of deeds, shall be guilty of a misdemeanor.

(B) 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.

(C) The 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 ordinance.

### **ARTICLE 400: AMENDMENTS TO THE WATERSHED PROTECTION ORDINANCE**

#### **Section 401. Changes and Amendments to the Watershed Protection Ordinance.**

(A) The Vance County Board of Commissioners 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 (45) days after submission of the proposal to the Chairman of the

Watershed Review Board, the Vance County Board of Commissioners may proceed as though a favorable report had been received.

- (C) Under no circumstances shall the Vance County Board of Commissioners 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.

#### **Section 402. Public Notice and Hearing Required.**

- (A) Before adopting or amending this ordinance, The Vance County Board of Commissioners shall hold a public hearing on the proposed changes.
- (B) 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 ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.

### **ARTICLE 500: WATERSHED ADMINISTRATOR**

#### **Section 501. Watershed Administrator and Duties Thereof.**

- (A) The County manager shall appoint a Watershed Administrator, who shall be duly sworn in.
- (B) It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this ordinance as follows:
  - (1) The Watershed Administrator shall issue Watershed Protection Approvals and Watershed Protection Occupancy Approvals as prescribed herein. A record of all approvals shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.
  - (2) The Watershed Administrator shall serve as clerk to the Watershed Review Board.
  - (3) 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.
  - (4)
    - a. The Watershed Administrator shall keep records of the jurisdiction's utilization of the provision that a maximum of 10 percent (10%) of the non-critical area of WS-II-BW and WS-III-BW watersheds may be developed with non-residential development to a maximum of seventy percent (70%) built-upon surface area.
    - b. 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, acres, site plan, use, storm water management plan as applicable and inventory of hazardous materials as applicable.
  - (5)
    - a. 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 County.
    - b. 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.

- (6) The Watershed Administrator shall keep a record of all variances to the local Water Supply Watershed Protection Ordinance, and shall be submitted for each calendar year to the Division of Water Quality on or before January 1, of the following year and provide a description of each project receiving a variance and the reasons for granting the variance.

#### **Section 502. Appeal from the Watershed Administrator.**

- (A) Any order, requirement, decision of determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.
- (B) (1) An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty (30) days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal.
- (2) Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- (C) (1) An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him or her that by reason of facts stated in the certificate, a stay would in his or her opinion cause imminent peril to life or property.
- (2) In that case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.
- (D) (1) The Board shall fix a reasonable date for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time.
- (2) At the hearing, any party may appear in person, by agent or by attorney.

### **ARTICLE 600: WATERSHED REVIEW BOARD**

#### **Section 601. Establishment of Watershed Review Board**

- (A) (1) There shall be and hereby is created the Watershed Review Board consisting of five (5) members appointed by the Vance County Board of Commissioners.
- (2) All terms shall be for 3 years, and members may be reappointed. It is recommended that at least 1 member be chosen from 1 of the watershed areas.
- (B) Two (2) alternate members shall be appointed to serve on the Watershed Review Board in the absence of any regular member and shall be appointed for three (3) year terms. While attending in the capacity of a regular member, the alternate shall have and exercise all the powers and duties of the absent regular member. It is recommended that at least one member be chosen from one of the watershed areas.

#### **Section 602. General Proceedings of the Watershed Review Board.**

- (A) The Board shall annually elect a chairperson and a vice-chairperson from among its members. The chairperson in turn shall appoint a secretary, who may be an employee of the County, county officer or a member of the Watershed Review Board.
- (B) The chairperson, or in his or her absence the vice-chairperson, may administer oaths and request the attendance of witnesses. The Board shall keep minutes of its proceedings, including the names of members present and absent, a record of the vote on every question or abstention from

voting, if any, together with records of its examinations and other official actions.

### **Section 603. Meetings.**

(A) *Board Meetings.*

- (1) The Board shall hold regular monthly meetings at a specified time and place.
- (2) Special meetings of the Board may be called at any time by the chairperson or by request of three (3) or more members of the Board. At least forty-eight (48) hours written notice of the time and place of meetings shall be given, by the chairperson, to each member of the Board. All Board meetings are to be held in accordance with Article 33B of Chapter 143 of the General Statutes of North Carolina, commonly referred to as the Open Meeting Law.

(B) *Cancellation of Meetings.* Whenever there are no appeals or other business for the Board, or whenever so many members so notify the secretary of inability to attend that a quorum will not be available, the chairperson may dispense with a meeting by giving written or oral notice to all members.

(C) *Quorum.* A quorum shall consist of three (3) members of the Board, but the Board shall not pass upon any questions relating to an appeal from a decision or determination of the Watershed Administrator when there are fewer than four-fifths (4/5) of the members present.

(D) *Voting.*

- (1) All regular members may vote on any issue unless they have disqualified themselves for one or more of the reasons listed in this ordinance.
- (2) The required vote to decide applications for appeals and variances shall not be reduced by any disqualification.
- (3) In all other matters, the vote of a majority of the members present and voting shall decide issues before the Board.

### **Section 604. Rules of Conduct for Members.**

Members of the Board may be removed by the Vance County Board of Commissioners for cause, including violation of the rules stated below.

- (A) Faithful attendance at meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite to continuing membership on the Board.
- (B) No Board member shall take part in the hearing, consideration, or determination of any case in which he is personally or financially interested. A board member shall have a "Financial interest" in a case when a decision in the case will cause him or his spouse to experience a direct financial benefit or loss, or will cause a business in which he or his spouse owns a 10 per cent or greater interest, or is involved in a decision-making role, to experience a direct financial benefit or loss. A Board member shall have a "personal interest" in a case when it involves a member of his immediate family (i.e., parent, spouse, or child).
- (C) For cases where appeals or variance consideration are to be considered, no Board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from the Watershed Administrator or any other member of the Board, its secretary or clerk prior to the hearing. Where the Board is to consider a Special Non-residential Intensity Allocation or is to consider approval of a subdivision, a Board Member should not place himself in a position where

a special favor, interest or consideration could be construed. Generally, all information pertinent to a case would be of value to the entire Board and should be offered by the applicant at the public-meeting with all members in attendance.

- (D) Members of the Board shall not express individual opinions on the proper judgment of any case prior to its determination on that case.
- (E) Members of the Board shall give notice to the chairman as soon as the member becomes aware of any potential conflict of interest which he has in a particular case before the Board.
- (F) No Board member shall vote on any matter that decides an application or appeal unless he had attended the public hearing on that application or appeal.

#### **Section 605. Appeals and Variances.**

(A) *Types*

- (1) *Appeals.* The Board shall hear and decide all appeals from any decision or determination made by the Watershed Administrator.
- (2) *Variances.* All applications for variances shall first be presented to the Watershed Administrator, who in turn shall refer the applications to the watershed Review Board for review and decision in accordance with the procedures outlined in Section 606 of this ordinance.

- (B) *Procedure for filing applications for appeals and variances.* No hearing shall be held by the Board unless notice thereof is filed within thirty (30) days after the interested party or parties receive the written decision or determination by the Watershed Administrator or the aggrieved party or parties receive constructive notice of the decision. Applications shall be filed with the Watershed Administrator, who shall act as clerk for the Board in receiving this notice. All applications shall be made upon the form specified for that purpose and all information required on the form shall be complete before an application shall be considered as having been filed. Once applications have been filed, the Watershed Administrator shall immediately notify the chairperson of the Board that such applications have been received.

(C) *Hearings.*

- (1) *Time.* After receipt of an application for an appeal or variance, the Board Chairperson shall schedule a time for a hearing which shall be within forty-five (45) days from the filing of such notice of the application.

- (2) *Notice of Hearing.*

- a. For all applications, notice of the hearing shall be mailed to the adjoining property owners and to such other persons as the Watershed Administrator shall direct at least five (5) days prior to the hearing.
  - b. The notice shall state the location of the building or lot, the general nature of the question involved and the time and place of the hearing.

- (3) *Conduct of Hearing.* The hearing shall be a quasi-judicial proceeding.

- a. Any party may appear in person or by agent or by attorney at the hearing.
  - b. The order of business for the hearing shall be as follows:
    - 1. The chairperson, or a person as he or she shall direct, shall give a preliminary statement of the case;

2. The applicant shall present the argument in support of the application;
  3. Persons opposed to granting the application shall present their argument against the application;
  4. Both sides will be permitted to present rebuttals to opposing testimony;
  5. The chairperson shall summarize the evidence which has been presented, giving the parties opportunity to make objections or corrections.
- c. Witnesses may be called and factual evidence may be submitted, but the Board shall not be limited to consideration of only such evidence as would be admissible in a court of law. The Board may view the premises before arriving at a decision. All witnesses before the Board shall be placed under oath and the opposing party may cross-examine them.

(D) *Decisions.*

- (1) *Time.* A decision by the Board shall be made within thirty-five (35) days from the time of hearing.
- (2) *Form.*
  - a. Written notice by certified or registered mail of the decision in a case shall be given to the applicant or appellant by the secretary as soon as practical after the case is decided.
  - b. Also, written notice shall be given to owners of the subject property and to persons who have made a written request for such notice. The final decision of the Board shall be shown in the record of the case as entered in the approved minutes. The record shall show the reasons for the determination, with a summary of the evidence introduced and the findings of fact made.
- (3) *Effect of Decision.* The decision on an application for an appeal may reverse or affirm, wholly or partly, or modify the decision or determination of the Watershed Administrator.
- (4) *Major Variance.* With an application for a major variance the Watershed Review Board shall provide a recommendation to the N. C. Environmental Management Commission. The N. C. Environmental Management Commission shall have the authority to approve or deny the issuance of a variance. If the N. C. Environmental Management Commission approves the variance, the Watershed Review Board may direct the Watershed Administrator to issue a watershed Protection Permit.
- (5) *Voting.* The concurring vote of four-fifths (4/5) of the members of the Board shall be necessary to reverse any decision or determination of the Watershed Administrator. A majority vote of the members present and voting is required to provide a recommendation to the N. C. Environmental Management Commission on an application for a major variance.
- (6) *Public Record of Decisions.* The decisions of the Board, as filed in its minutes shall be a public record and available for inspection at all reasonable times. Every decision of the Watershed Review Board shall be filed in the office of the Watershed Administrator and a written copy thereof shall be delivered to the applicant and adjacent property owners by personal service or registered mail.
- (7) *Decisions and Appeals.*
  - a. Every decision by the Board regarding appeals from decisions of the Watershed Administrator shall be subject to review by superior court by proceeding in the nature of certiorari.

- b. Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the decision of the board is filed in such office as the ordinance specifies, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or chairperson of the board at the time of its hearing of the case, whichever is later.
- c. The decision of the board may be delivered to the aggrieved party either by personal services or by registered mail or certified mail return receipt requested.

#### **Section 606. 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 of unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. In addition, the County 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.
  - (1) Application for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:
    - a. A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
    - b. A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.
    - c. The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water for consumption. This notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.
  - (2) Before the Watershed Review Board may grant a variance, it shall make the following 3 findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:
    - a. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exists:
      - 1. If he or she with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of his or her

property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.

2. The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardships.
  3. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
  4. The hardship is not the result of the actions of an applicant who violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.
  5. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.
- b. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
  - c. In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.
- (3) a. In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this ordinance.
- b. If a variance for the construction, alteration or use of property is granted, such construction, alternation or use shall be in accordance with the approved site plan.
- (4) The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
- (5) A variance issued in accordance with this Section shall be considered Watershed Protection Approval and shall be site and plan specific. Any alterations effecting the variance may be grounds for a new hearing. 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.
- a. The preliminary record of the hearing shall include:
    1. The variance application;
    2. The hearing notices;
    3. The evidence presented;
    4. Motions, offers of proof, objections to evidence, and rulings on them;
    5. Proposed findings and exceptions;



6. The proposed decision, including all conditions proposed to be added to the permit.
- b. The preliminary record shall be sent to the Environmental Management Commission for its review as follows:
  1. 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 Watershed Review Board. 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.
  2. If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that the property owner can secure a reasonable return from or make a practical use of the property without the variance or 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 Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

(C) *Subdivision Approval*. See Article 300.

(D) *Public Health*. See Article 200.

(E) *Approvals*. Approval of all development greater than the low density option.

## **Section 607. Appeals from the Watershed Review Board.**

Every decision by the Board regarding appeals from decisions of the Watershed Administrator shall be subject to review by superior court by proceeding in the nature of certiorari. Any petition for review by the superior court shall be filed with the clerk of superior court within 30 days after the decision of the board is filed in such office as the ordinance specifies, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or chairperson of the board at the time of its hearing of the case, whichever is later. The decision of the board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

## **ARTICLE 700: DEFINITIONS**

### **Section 701. General definition.**

**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 non-point source inputs to receiving waters in order to achieve

water quality protection goals.

**Buffer.** An area of natural or planted vegetation through which storm water 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 areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

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

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

**County.** Vance County

**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.

**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 purposes 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 (25%) 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 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 landfill which discharges treated leachate and which requires National Pollution Discharge Elimination system (NPDES) permit.

**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 (G.S. 153A-344.1 and G.S. 160a-385.1), or
- (C) Having expended substantial resources (time, labor, money) and 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.** One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a family or families.

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

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

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

**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 from the minimum statewide water supply watershed protection rules that results in the following:

The relaxation, by factor of greater than ten (10%) percent, of any management requirement that takes the form of a numerical standard under the low density option.

**Minor Variance.** A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to (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 this ordinance (or its amendments) that does not meet the minimum lot size or other development requirements of the ordinance.

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

**Perennial Waters.** Water that is flowing continuously or courses of water as indicated on the U.S.G.S. 7.5 minute topographic maps.

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

**Protected Area.** The area adjoining and upstream of the critical area of WS-IV watershed. 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 ridge line of the watershed; or within 10 miles upstream; and draining to the intake located directly in the stream or river or to the ridge line 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.

**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

**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 the dedication of a new street or a change in existing streets; but the following shall 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.

**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.

**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 drainage to a specific point (e.g. the water supply intake).

**Watershed Administrator.** An official or designated person of [county][town] responsible for administration and enforcement of this ordinance.

**PART TWO**  
**VANCE COUNTY**  
**WATERSHED MANAGEMENT PLAN**

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**INTRODUCTION**

Water supply protection for Vance County includes two watershed areas.

**ANDERSON CREEK WATERSHED**

The first water supply is located on the east bank of Anderson Creek near the junction with the John H. Kerr Reservoir. Water drawn from Anderson Creek is treated at a regional Water Treatment Plant, then distributed to cities in a three county area. The watershed for this water supply begins just outside the corporate limits of Henderson and drains north to John H. Kerr Reservoir. Land within the watershed area is rather flat, falls to gradual slopes and close to the creek slopes become rather extreme.

The watershed's 5613 acres are predominantly agricultural and natural forested areas. Recent residential development has occurred as permanent residences, not as seasonal as would be expected. Several subdivisions have been developed in the watershed area. Some of these do have paved street, large lots and individual septic tanks and wells. Other subdivisions are on gravel roads and have much smaller lots. There are two industrial sites, a rock quarry and an asphalt plant.

Land in the northern part of the watershed fall within the jurisdiction of the Corps of Engineers and has water and soil conservation restrictions imposed by the Corps. Recreational uses related to the reservoir such as boat docks, marinas, swimming beaches are limited. Adjoining land owners have restricted access and are not allowed to alter natural vegetation to any large extent. Management of the Anderson Creek watershed will impact the John Kerr Lake.

## **TAR RIVER WATERSHED**

The second water supply intake is located outside Vance County, on the Tar River at Louisburg, in Franklin County. The water intake is on the Tar River which forms the southern boundary of Vance County and supplies water to Louisburg. There are 6,227 acres of the watershed within Vance County and 49,811 acres within Franklin County. The land rolls gently, changing as it approaches the river to gradual slopes and then to rather extreme slopes.

Predominant land use is agricultural and single family residential. Management of the Tar River Watershed will have an impact on Franklin County and ultimately on Louisburg. Protection and management efforts will not benefit this area on the basis of surface water, but will serve to help protect the groundwater in the general area.

Both watershed areas have limited amounts of development at this time. Future development of any kind will have an impact on the water quality. Whether the amount of impact will be measurable on water quality will depend on the nature and extent of development.

### **PUBLIC PARTICIPATION IN VANCE COUNTY WATERSHED PROTECTION**

Watershed protection became a responsibility of the county when the North Carolina General Assembly passed House Bill 156. House Bill 156 mandated that all cities and counties adopt watershed regulations. The Vance County Board of Commissioners appointed a Watershed Planning Group.

The Watershed Planning Group consisted of representatives from the Cooperative Extension Service, the Soil and Water Conservation Service, the Forest Service, the Economic Development Commission, the Corp of Engineers and several members of the County staff. In addition, four citizens were included in the group.

A public information leaflet was prepared and sent to all property owners in the two watershed areas. Information included in this leaflet covered topics such as "What is a watershed?", "What do watersheds have to do with you?", "Why is the County adopting watershed regulations or what is being done to protect our watershed". The leaflet gave the dates, time and places for two public information meetings (one for each watershed), a two week public review/comment period and for the public hearing. The leaflet also addressed the designated management agencies for farming and forestry.

Two public information meetings were held, one in each watershed. The Henderson Daily Dispatch published an information article which gave general information regarding watershed and highlighted the information meeting dates. Approximately, thirty-five to forty people attended each meeting. The people attending were given a brief history of the legislation and an explanation of the classifications, boundaries and uses. There was time allotted for discussions, questions and answers. Technical information prepared by the designated management agency was also made available along with the name of the designated agency, contact person and telephone number of people involved in farming and forestry. Representatives from those agencies were in attendance to answer questions and provide information.

A public hearing notice was published two times in the local newspaper. The notice also advised the public of a two week period which was set aside for the public to review the ordinance, management plan and maps. Written comment was invited.

A public hearing on the new regulations was held by the Vance County Board of Commissioners. A briefing of the issues was presented, discussion was held and the meeting was opened to the public for comment.

Goals and objectives have been formulated which identify the need for public awareness and education programs. These programs will be developed in the future and efforts will be made to develop joint programs with the Cooperative Extension Service, the Soil and Water Conservation Service and the Forest Service.

## **IMPLEMENTATION METHODS**

### **COOPERATION BETWEEN JURISDICTIONS**

The following goals and objectives were formulated with regard to cooperation between jurisdictions within the two watershed areas.

#### **C-1. To encourage and support cooperation with jurisdictions in shared watersheds.**

- C-1.1 Develop administrative procedures that will routinely route development materials for review and comment to Louisburg and Franklin County (Tar River Watershed) and to the Corps of Engineers (Anderson Creek Watershed.)
- C-1.2 Develop mutual sharing of water quality test results.
- C-1.3 Develop procedures that will routinely route any appeal or variance requests for review and comment to Louisburg and Franklin County (Tar River Watershed) and to the Corps of Engineers (Anderson Creek Watershed).
- C-1.4 Develop procedures to route any amendment of the Watershed Ordinance to Louisburg and Franklin County (Tar River Watershed) and to the Corps of Engineers (Anderson Creek Watershed) for review and comment.
- C-1.5 Develop procedures to route possible allocations of 5% - 70% SNIA to the Corps of Engineers (Anderson Creek Watershed) for review and comment.

The following is offered recognizing the desirability and necessity for joint cooperation within the two watershed areas in order to implement these goals and objectives.

#### **ANDERSON CREEK WATERSHED**

The United States Corp of Engineers has jurisdiction over a small portion of the Anderson Creek Watershed in the flood zone of John H. Kerr Lake (reservoir). There would be no subdivision or lands nor sales of land in this area. The use and alteration of lands under the Corp of Engineers is controlled very carefully. Their restrictions would exceed all soil conservation and erosion control measures proposed by House Bill 156.

Certain lands adjacent to the lake are under recreational leases. There are three leases in the Anderson Creek Watershed which service a large number of people. They are to the Girl Scout Camp, the Methodist Church Camp and to Vance County for a swimming beach. Soil conservation and effluent disposal are closely monitored. Two additional leases are located *adjacent* to the watershed. The first is with the State of North Carolina which includes camping, picnicking and boat ramps. The other is with Satterwhite Point Marina which sells, services and rents boats for use at the lake, along with sales of gasoline, fishing supplies and snacks.

All requests for approval of development site plans, subdivision, SNIA awards and variances will be distributed to the Corp of Engineers for review, comment and recommendation prior to review by the Watershed Review Board. This will be accomplished by a routing sheet and tracked on a checklist for each procedure.

The Corp of Engineers has served as a technical advisor to the Watershed Planning Group in its formulation of the ordinance and management plan. Any revision to the adopted ordinance or management plan would be routed to the Corps for their review, comments and recommendations. This routing would be tracked through the amendment checklist.



## TAR RIVER WATERSHED

The Tar River water supply intake is located at Louisburg, which is in Franklin County. The ten mile radius defining the protected area of this water supply intake encompasses a portion of lower Vance County with the Tar River forming the southern boundary of the county.

All requests for approval of development site plans, subdivision and variances will be distributed to Louisburg and to Franklin County for review, comment and recommendation prior to review by the Watershed Review Board. This will be accomplished by a routing sheet and tracked on a checklist for each procedure.

Any revision to the adopted ordinance or management plan would be routed to Louisburg and Franklin county for their review, comments and recommendations. This routing would be tracked through the amendment checklist.

Shared watershed water quality testing will be addressed at some point in the near future.

### **IMPLEMENTATION METHODS COOPERATION BETWEEN AGENCIES**

The following goals and objectives were set to establish the atmosphere of cooperation within the existing departments, divisions and agencies of the County.

#### **C-2 To encourage and support watershed protection efforts of the Soil Conservation Service, Health Department and Code Enforcement Division with the County.**

- C-2.1 Develop procedures that will routinely route development materials for review and comment to all affected county offices.
- C-2.2 Develop procedures that will routinely route any appeal or variance requests for review and comment to all affected county offices.
- C-2.3 Develop procedures to route any amendment of the Watershed Ordinance to all affected county offices for review and comment.
- C-2.4 Develop procedures to route possible allocations of 5% - 70% SNIA to all affected county offices for review and comment.
- C-2.5 Adopt procedures that encourage, support and recognize compliance with all local, state or federal programs that the County administers.
- C-2.6 Actively encourage inter-office cooperation on all development issues.

All requests for approval of development site plans, subdivisions plats, SNIA awards, variances and appeals will be routed to the Code Enforcement Division, the Health Department and the Soil Conservation Service for review, comment and recommendation on a routine basis. Development materials will also be routed to the Department of Transportation, N. C. Division of Forestry and Department of Environmental Management when appropriate. The Watershed Administrator will monitor this distribution through means of a checklist and routing slips.

The Watershed Administrator will forward these comments to the applicant, if revision is necessary, and to the Watershed Review Board. The Watershed Administrator will make the applicant aware of other Federal, State or County regulations, where possible, that may be applicable to the project.

A development review committee could be established in the future to further the goals of cooperation and further communication amongst those agencies, departments or divisions involved.

Any revisions to the adopted ordinance or management plan will be routed in a similar manner.

Additionally, the following goals and objectives were formulated to support and encourage the activities and programs being administered by the management agencies designated by the State relating to water quality issues.

#### FARMING (AGRICULTURE)

##### **F-1 Minimize risk of contamination of watershed due to Agribusiness**

- F-1.1 Encourage and support soil conservation and management measures.
- F-1.2 Encourage participation in federal and state cost share programs, conservation plans and incentive programs.
- F-1.3 Encourage compliance with federal and state regulations relating to conservation plans and measures.
- F-1.4 Encourage appropriate disposal of animal waste and carcasses.
- F-1.5 Encourage use of alternatives to extensive use of pesticides and fertilizers.
- F-1.6 Assist Soil Conservation Service to seek funds to support and encourage compliance with federal and state requirements.
- F-1.7 Encourage voluntary participation in use of best management practices by all animal operations, not just those required by regulation.
- F-1.8 Encourage revegetation of idle or unproductive land.

#### FORESTRY (SILVICULTURE)

##### **S-1. Minimize damage to forested areas that increase the risk of excessive storm water runoff.**

- S-1.1 Encourage and support use of the "Forestry Practices Guidelines Related to Water Quality".
- S-1.2 Encourage use of ground covers on areas that have been clear cut, according to best management practices.
- S-1.3 Encourage reforestation of idle or unproductive land, according to best management practices.
- S-1.4 Encourage multiple use of forested areas for wildlife, recreation, conservation and watershed protection, according to best management practices.

#### TOXIC AND HAZARDOUS MATERIALS

##### **T-2 Initiate a contamination prevention program.**

- T-2.1 Establish a public education/awareness program.
- T-2.2 Support the efforts of the Soil Conservation Service and the Cooperative Extension Service to educate and inform the farming community.
- T-2.3 Support the efforts of the Division of Forestry to educate and inform the forestry community.

Representatives from the Soil Conservation Service, the Cooperative Extension Service, the Forest Service, the Economic Development Commission, the Solid Waste Division, the Code Enforcement Department, the Health Department, the Corp of Engineers along with citizen representatives served either on the Watershed Advisory Group or as technical advisors to the planning group. The involvement of these representatives at the earliest stages of the watershed program was designed to begin communication and cooperation between all entities that would ultimately be directly or marginally involved in watershed protection.

A public information leaflet was prepared and sent to all property owners within the two watershed areas. These leaflets included information for all land uses including the farming and forestry community. The leaflets noted which agencies were responsible for uses outside the county's jurisdiction such as farming and forestry.

Public information meetings also included information for those involved in farming and forestry. The designated management agency name, contact person, and phone number were made available to all in attendance. Technical information was made available which had been prepared by the designated management agencies. These agencies were also represented at the public information meetings to answer questions.

Future cooperation and support may take the form of joint public awareness and education programs. Information from all agencies involved in watershed protection will be available for distribution at a number of locations throughout the county.

### **GOALS AND OBJECTIVES FOR VANCE COUNTY WATERSHED PROTECTION**

The letter designation at the beginning of each goal identifies its category.

C = Cooperation between Agencies and Jurisdictions	G = General
G = Golf Courses, Nurseries and Cemeteries	O = Open Space
T = Transportation	F = Farming
D = Development	H = Hazardous or Toxic Materials
S = Silviculture (Forestry)	

### **COOPERATION BETWEEN AGENCIES AND JURISDICTIONS**

#### **C-1. To encourage and support cooperation with jurisdictions in shared watersheds.**

- C-1.1 Develop administrative procedures that will routinely route development materials for review and comment to Louisburg and Franklin County (Tar River Watershed) and to the Corps of Engineers (Anderson Creek Watershed).
- C-1.2 Develop mutual sharing of water quality test results.
- C-1.3 Develop procedures that will routinely route any appeal or variance requests for review and comment to Louisburg and Franklin County (Tar River Watershed) and to the Corps of Engineers (Anderson Creek Watershed).
- C--1.4 Develop procedures to route any amendment of the Watershed Ordinance to Louisburg and Franklin County (Tar River Watershed) and to the Corps of Engineers (Anderson Creek Watershed) for review and comment.
- C-1.5 Develop procedures to route possible allocations of 5% - 70% SNIA to the Corps of Engineers (Anderson Creek Watershed), for review and comment.

**C-2. To encourage and support watershed protection efforts of the Soil Conservation Service, Health Department and Code Enforcement Division with the County.**

- C-2.1 Develop procedures that will routinely route development materials for review and comment to all affected county offices.
- C-2.2 Develop procedures that will routinely route any appeal or variance requests for review and comment to all affected county offices.
- C-2.3 Develop procedures to route any amendment of the Watershed Ordinance to all affected county offices for review and comment.
- C-2.4 Develop procedures to route possible allocations of 5% - 70% SNIA to all affected county offices for review and comment.
- C-2.5 Adopt procedures that encourage, support and recognize compliance with all local, state or federal programs that the County administers.
- C-2.6 Actively encourage inter-office cooperation on all development issues.

**GENERAL**

**G-1. Eliminate abandoned vehicles, discarded furniture and appliances, and unauthorized dumping of trash in the watershed.**

- G-1.1 Sponsor public education programs
- G-1.2 Sponsor appliance and furniture pickup days quarterly.
- G-1.3 Develop an ordinance to prohibit abandoned vehicles, discarded furniture and appliances, and unauthorized dumping of trash in the watershed.

**TOXIC AND HAZARDOUS MATERIALS**

**H-1. Assure that the local toxic and hazardous materials response team is prepared to provide emergency spill containment.**

- H-1.1 Encourage and support education and training in spill containment and management for all response team members.
- H-1.2 Seek funding to provide training, equipment and materials necessary for emergency spill containment.
- H-1.3 Support, participate in and cooperate with the Vance County Emergency Management Department.

**H-2. Initiate a contamination prevention program.**

- H-2.1 Establish a public education/awareness program.
- H-2.2 Support the efforts of the Soil Conservation Service and the Cooperative Extension Service to educate and inform the farming community.
- H-2.3 Support the efforts of the Division of Forestry to educate and inform the forestry community.
- H-2.4 Prohibit the manufacture of toxic or hazardous materials or manufacturing where a by-product of the process is a toxic or hazardous material.
- H-2.5 Discourage the use or storage of toxic or hazardous materials in the watershed areas.
- H-2.6 Where the use or storage of toxic or hazardous materials is necessary, require a spill containment plan and spill containment measures.
- H-2.7 Where existing use or storage occurs in the watershed, encourage voluntary construction of spill containment measures. Seek funding to assist voluntary compliance where possible.
- H-2.8 Assure that appropriate planning procedures and training are reviewed on an annual basis and kept current.
- H-2.9 Discourage the transportation of toxic and hazardous materials through the watershed.
- H-2.10 Identify emergency, temporary and permanent measures for spill containment along transportation routes routinely used for transporting toxic or hazardous materials.

H-2.11 Establish routine inspections of all sites storing toxic or hazardous materials.

### **GOLF COURSES, NURSERIES, AND CEMETERIES**

#### **G-1 Encourage development of best management practices.**

G-1.1 Encourage minimum use of fertilizer and pesticides.

### **OPEN SPACE - LANDSCAPE BUFFERS**

#### **O-1. Preserve natural physical features, vistas and scenic attractions.**

- O-1.1 Encourage reforestation and/or revegetation of mining sites, quarries or logging sites.
- O-1.2 Encourage minimum pruning spraying or clearing of underbrush in natural areas.
- O-1.3 Encourage use or establishment of footpaths or trails with limited vehicular access in natural areas.
- O-1.4 Encourage cluster development and use of open space to minimize impacts of development for all uses.
- O-1.5 Discourage over-clearing during construction phase and minimize grading to actual building "footprints".

### **FARMING (AGRICULTURE)**

#### **F-1. Minimize risk of contamination of watershed due to Agribusiness**

- F-1.1 Encourage and support soil conservation and management measures.
- F-1.2 Encourage participation in federal and state cost share programs, conservation plans and incentive programs.
- F-1.3 Encourage compliance with federal and state regulations relating to conservation plans and measures.
- F-1.4 Encourage appropriate disposal of animal waste and carcasses.
- F-1.5 Encourage use of alternatives to extensive use of pesticides and fertilizers.
- F-1.6 Assist Soil Conservation Service to seek funds to support and encourage compliance with federal and state requirements.
- F-1.7 Encourage voluntary participation in use of best management practices by all animal operations, not just those required by regulation.
- F-1.8 Encourage revegetation of idle or unproductive land.

### **DEVELOPMENT ACTIVITIES**

#### **D-1. Minimize risk to water quality by limiting new construction to low density, low intensity development.**

- D-1.1 Minimize impervious cover - i.e.: roads, parking lots, sidewalks, courtyards.
- D-1.2 Encourage cluster development.
- D-1.3 Encourage use of buffers and open space.
- D-1.4 Discourage grubbing, clearing, scarification until absolutely necessary to development construction.
- D-1.5 Encourage temporary erosion control measures during construction.
- D-1.6 Encourage revegetation of disturbed soils.
- D-1.7 Discourage any development in areas of poor soil or severe slopes. (See Vance County Soils Report)
- D-1.8 Encourage development to provide for the orderly growth and development of the County and create conditions essential to public health, safety and welfare.

## **TRANSPORTATION**

### **T-1. Minimize amount of roads (impervious surfaces) constructed in the watershed areas.**

- T-1.1 To the extend possible, the construction of new roads in the critical area should be avoided.
- T-1.2 Encourage use of cluster development thereby reducing the amount of pavement necessary.

### **T-2. Minimize the effect of roads constructed in watershed areas.**

- T-2.1 The construction of new roads and bridges shall minimize built-upon area, divert storm water away from surface water supply waters as much as possible and employ best management practices (BMP's) to minimize water quality impacts.
- T-2.2 Require Best Management Practices for repairs or widening of any existing road.

### **T-3. Minimize transportation of toxic or hazardous materials on roads in the watershed areas.**

- T-3.1 Discourage the use, storage or sale of toxic or hazardous materials in the watershed area.

## **FORESTRY (SILVICULTURE)**

### **S-1. Minimize damage to forested areas that increase the risk of excessive storm water runoff.**

- S-1.1 Encourage and support use of the "Forestry Practices Guidelines Related to Water Quality".
- S-1.2 Encourage use of ground covers on areas that have been clear cut, according to best management practices.
- S-1.3 Encourage reforestation of idle or unproductive land, according to best management practices.
- S-1.4 Encourage multiple use of forested areas for wildlife, recreation, conservation and watershed protection, according to best management practices.

## **SOILS IN VANCE COUNTY**

There are twenty six soil types in the Vance County Soil Survey. Fourteen of these classifications have severe restrictions for installation and operation of a septic tank absorption field. The reason for these restrictions are that either the water table is too high or the slopes are too severe.

The remaining twelve have moderate limitation for the installation and operation of a septic tank absorption field. The reason for most of those restrictions is that the soil percolates very slowly. This means that larger amounts of land will be required to handle the effluent produced by an average household.

One of the most limiting factors to development in a rural environment is waste water discharge.

### **TAR RIVER WATERSHED**

The most desirable land for residential development in the Tar River Watershed is also that land which produces the highest agriculture yield of any soil in Vance County. These soils are Appling and Vance. These areas have already been cleared and have large tracts of agricultural yield. The Vance soils are less desirable for land development because they have severe restrictions for building site development.

There are other areas of good soil, but they are in smaller tracts and are interspersed with soils of severe restriction. The best use for this type of land is small agricultural operations or very low intensity

residential development (soils of moderate restriction) with large areas left in a natural state (areas with severe restriction). This type of soil pattern sometimes lends itself well to cluster development. Those areas of severe restriction are expensive to develop and alterations are rarely satisfactory or permanent without extensive maintenance.

The soils with severe restrictions are generally along stream beds and their flood areas, at the top of rises, along slopes and ravines. These areas will also be the most sensitive to watershed runoff.

#### **ANDERSON CREEK WATERSHED**

The southern end of this watershed is very similar to the Tar River Watershed. The most agriculturally productive land, that with Appling, Vance and Durham soils, is also the most desirable land for development with the exception of the Vance soils. Areas with these soils have been cleared and are in full production. Soils that are less productive have been used for pasture land. There is more residential development in the near vicinity of the Henderson city limits.

The northern portion of the Anderson Creek has smaller tracts of the high producing soils, again interspersed with soils of high restriction for septic tank absorption fields.

The proximity to John H. Kerr Reservoir will make this land desirable for residential development, seasonal or otherwise. Sites directly adjacent to the land under Corps of Engineers control would be the most desirable based on view and proximity. The soils in these areas are largely Wedowee soils which range from moderate to severe restrictions based on slope and slow percolation and Cecil series soils which have moderate restrictions based on percolation and slope. Small farm operations or very low density residential development (moderately restricted soils) with areas left in a natural state (severely restricted soils) would be appropriate uses for these areas. Development in clusters would in some cases be most appropriate in these areas.

The soils with the most severe restrictions, again, will be located along the stream beds, reservoir banks and their flood areas along with slopes and ravines. These areas are not as productive for agriculture and have been left in a natural state to a large degree.

### **HAZARDOUS MATERIALS INVENTORY AND TOXIC CONTAINMENT PLAN**

#### **PURPOSE**

The Vance County Emergency Management Operations Plan states "The plan predetermines actions to be taken by the government agencies and private organizations of Vance County to reduce the vulnerabilities of people and property to disaster and establish capabilities to respond effectively to the actual occurrence of a disaster".

#### **RESPONSIBILITY**

In Vance County, the Emergency Management Office is responsible for maintaining a current and accurate list of all facilities that store toxic or hazardous materials. The Emergency Management Office also keeps a resource manual which includes a perpetual inventory of equipment, materials and personnel in the event of spills.

#### **"THE PLAN"**

The Vance County Emergency Operations Plan has two sections that apply to toxic and hazardous materials. The first section is a basic plan. It identifies hazardous materials as a potential hazard to the County:

"There are 30 industries/pesticide dealers considered users of hazardous materials.  
Hazardous materials are those materials which because of their characteristics pose a danger

to the environment or the inhabitants of that environment when introduced in sufficient quantity. In the fall and winter seasons, approximately eight L.P. gas tankers service residential and commercial users using Interstate 85 and U.S. 1 through the County...All types of hazardous materials, including low level radioactive waste, are transported across these routes.”

It further states the following assumptions:

- “1. It is necessary for the County to plan for and carry out...short-term recovery operations utilizing local resources...
2. Officials of the County are aware of the possible occurrence of an emergency, and their responsibilities in the execution of this plan and will fill these responsibilities as needed.
3. Implementation of this plan will reduce or prevent the loss of lives and damage to property.”

The plan has a “concept of operations” which identifies four phases of Comprehensive Emergency Management, 1)Mitigation, 2) Preparedness, 3) Response, 4) Recovery. It identifies all departments or individuals that might be called upon and clearly defines their responsibilities. One of the first agencies notified, on paper and in real practice, is the Regional Water Treatment Plant. The plan further discusses Federal\State\Local interfacing. The plan then refers to the specific section relating to Hazardous Materials.

The hazardous materials section of the Emergency Management Plan specifies the conditions and actions that are specific to toxic and hazardous spills. It delineates the different approaches for an on-site spill versus a transportation spill, takes into account the amount of the chemical, the potential toxic effects of the chemical (levels of actions required), the proximity to people, and the protective equipment required in dealing with the spill..

## **TRAINING**

Most of the responders from the government sector have received Awareness level HazMat training.

The sites within the two watershed areas were identified as storage sites. Most of these sites have two people on-site with Awareness level HazMat training and each of these sites has a minimum of one Awareness level HazMat trained individual.

Toxic and Hazardous Materials Goal One states “Assure that the toxic and hazardous materials response team is prepared to provide emergency spill containment.” Objectives 1.1 and 1.2 support further education and training of team members and further, identify the need for financial resources to carry out this objective. Under Goal Two, Objective 2.8 expresses a desire for annual reviews of both planning and training to assure both are kept current.

The Emergency Management Coordinator has requested that one of the six State response teams, currently being developed, be located in Vance County because of its proximity to John Kerr Lake (multiple water intakes) and due to the commitment and desire on the part of responders for more extensive training.

The Emergency Management Coordinator has applied for and received one small grant and has been actively seeking funds for further training.

## **HAZARDOUS MATERIALS SPILLS**

Hazardous materials spills in Vance County occur as a result of vehicular accidents. In many cases, the spill consists of twenty gallons or less of gasoline and are easily contained and cleaned up. On occasion, a household fuel tank (oil or kerosene) develops a leak, again easily contained and



cleaned up. A number of larger spills have occurred at service stations where local fire departments have been able to contain the spill and clean up was accomplished in a short time.

Two existing service stations are located adjacent to the Anderson Creek Watershed. Tankers carrying hazardous materials along with tankers delivering petroleum products travel roads that serve as the boundaries (and elevation breaks). There would be a potential for a serious spill in the watershed should a tanker carrying hazardous materials be involved in a collision.

It appears that transportation along Interstate 85, State Routes 1 and 158 pose one threat to water quality from hazardous spills. These roads cross the Tar River at the south end of the County. The bridges and bridge approaches have little spill protection. The roads carry traffic throughout the watershed area.

The Seaboard Railroad passes over the Tar River and traverses both watersheds. Very little is known about what materials have been or will be transported through the watershed area by rail. Railroads carry many of the same toxic and hazardous materials as tankers, but often in much larger quantities. The potential for a spill beyond the capabilities of the County exists from this source.

### **HAZARDOUS MATERIALS INVENTORY**

There are only three sites that store hazardous materials within the watershed areas. All are located within the Anderson Creek Watershed. The hazardous materials inventory was completed by the Emergency Management Coordinator. A field survey and a review of the Coordinators findings was done to determine any sites that may have been missed. The records were complete.

The following are a list of the sites. The inventory at each site is attached.

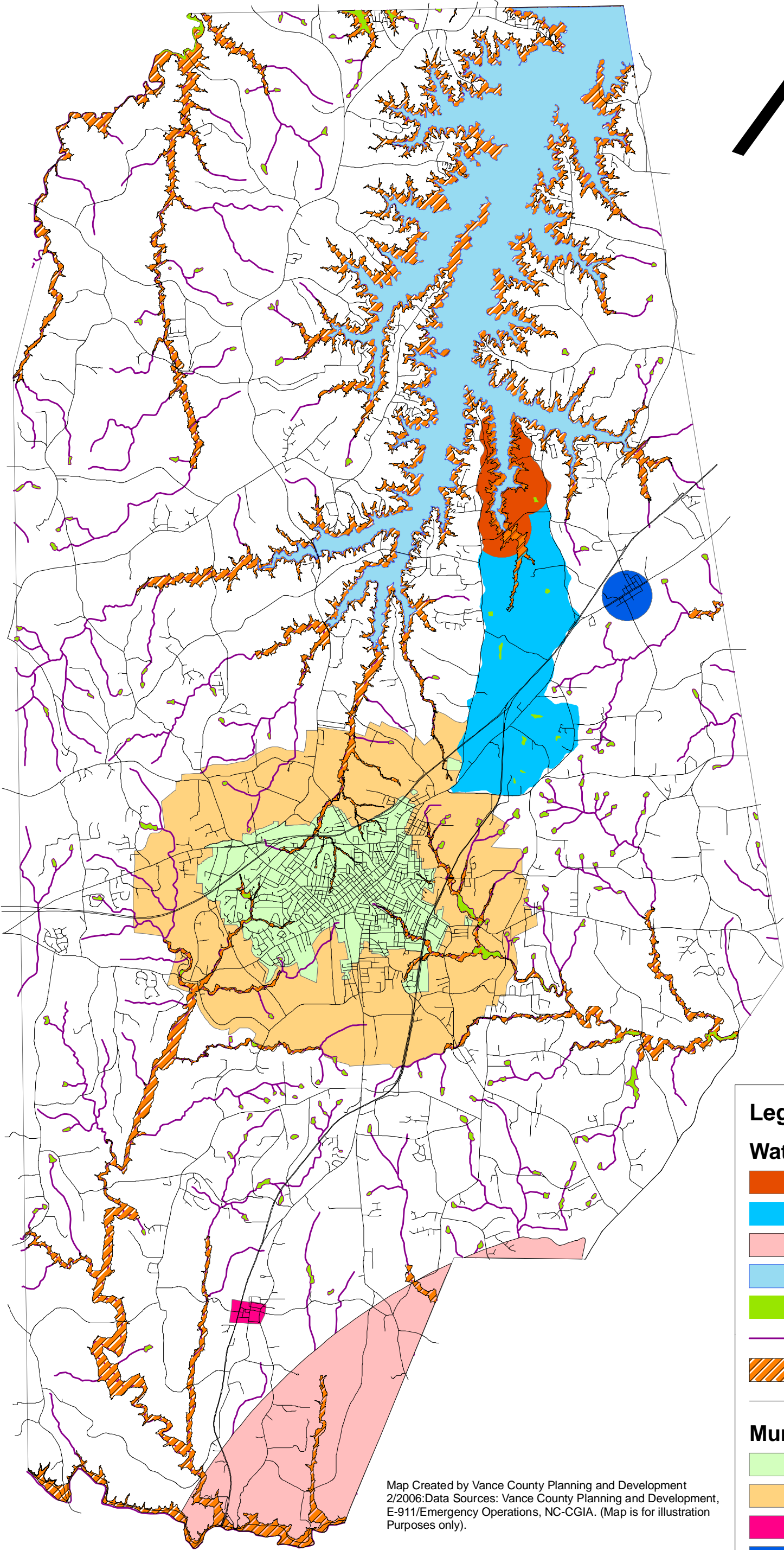
#### **Anderson Creek Watershed**

Kerr Lake Regional Water System  
S. T. Wooten Corporation  
S. T. Wooten Ready Mix

#### **Tar River Watershed**

None

# Vance County, NC Watersheds Locations



## Legend

### WaterShed Locations

- WS-III Anderson Creek Critical Area
- WS-III Anderson Creek
- WS-IV Tar River
- Kerr Lake
- Ponds
- Creeks and Streams
- 100 YR Flood Effective 2007
- Vance County Roads

### Municipalites and ETJ

- Henderson
- Henderson ETJ
- Kittrell
- Middleburg

Map Created by Vance County Planning and Development  
2/2006:Data Sources: Vance County Planning and Development,  
E-911/Emergency Operations, NC-CGIA. (Map is for illustration  
Purposes only).

0 1 2 4 6 8 10 12 14 Miles