

CHAPTER 4 WATERSHED PROTECTION

DRINKING SUPPLY WATERSHED PROTECTION ORDINANCE

ROCKINGHAM COUNTY, NORTH CAROLINA

Amended 11/1/1993; Effective 1/1/1994

Amended 10/9/2012

ARTICLE I: AUTHORITY AND GENERAL REGULATIONS

Section 1. Authority and Enactment.

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

Section 2. Jurisdiction.

The provisions of this Ordinance shall apply within all of Rockingham County outside the incorporated municipalities 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 Rockingham County, North Carolina," ("the Watershed Map"), and 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 Rockingham County Planning and Inspections Department.

Section 3. Exceptions to Applicability.

- A. Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Ordinance amend, modify, or restrict any provisions of the Code of Ordinances of Rockingham County; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the Rockingham County at the time of the 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 non-conforming lot of record, not contiguous to any other lot owned by the same party, shall not be subject to the development restrictions of this ordinance if it is developed for single-family residential purposes. Any lot or parcel created as part of any other type of subdivision that is exempt from a local subdivision ordinance shall be subject to the land use requirements (including impervious surface requirements) of these rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.

Section 4. Repeal of Existing Watershed Ordinance.

This ordinance in part carries forward by re-enactment, some of the Watershed Ordinance of the Rockingham County, North Carolina adopted by the Board of Commissioners on March 17, 1988 (as amended), and it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced. All provisions of the Watershed Ordinance which are not re-enacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any ordinance provisions heretofore in effect, which are now pending in any court of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this ordinance, but shall be prosecuted to their finality the same as if this ordinance had not been adopted; and any and all violations of the existing watershed protection regulations, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this ordinance shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

Section 5. Criminal Penalties.

Criminal Penalties shall be handled according to Chapter 2, Article XVI of the Unified Development Ordinance.

Section 6. Remedies.

- A. Any violations of the Watershed Protection regulations shall be subject to the enforcement remedies provided by Chapter 2, Article XVI, of the Unified Development Ordinance.
- B. If the Watershed Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to

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

Section 7. 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.

ARTICLE II: DEVELOPMENT REGULATIONS

Section 1. Establishment of Watershed Areas.

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

| | |
|---------------------|----------------------------------|
| County Line Creek | WS-II-BW (Balance of Watershed) |
| Troublesome Creek | WS-III-CA (Critical Area) |
| Troublesome Creek | WS-III-BW (Balance of Watershed) |
| Dan River (Eden) | WS-IV-PA (Protected Area) |
| Dan River (Madison) | WS-IV-PA (Protected Area) |
| Haw River | WS-IV-PA (Protected Area) |
| Mayo River | WS-IV-PA (Protected Area) |
| Smith River | WS-IV-PA (Protected Area) |

Section 2. Watershed Areas Described.

- A. WS-I Watershed Areas.
There are no WS-I Watershed areas in Rockingham County.
- B. WS-II Watershed Areas-Critical Area (WS-II-CA)
There are no WS-II-Critical Areas in Rockingham County.
- C. WS-II Watershed Areas - Balance of Watershed (WS-II-BW).
 - 1. Allowed Uses:
 - (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. [See Article II, Section 2(H)]
 - (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
 - (c) Residential development.

- (d) Non-residential development except those listed in (C)(3).
(Nondischarging landfills and residuals application sites are allowed.)

2. Density and Built-upon Limits:

- (a) Single Family Residential--development shall not exceed one dwelling unit per 43,560 square feet on a project by project basis. No residential lot shall be less than one acre (excluding roadway right-of-way), except within an approved cluster development.
- (b) All Other Residential and Non-Residential--development shall not exceed twelve percent (12%) built-upon area on a project by project basis. For the purpose calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- (c) The density or built-upon limit shall not be increased based on the type of utilities provided, except on a case-by-case basis through the variance process.

3. Prohibited uses:

- (a) Discharging landfills
- (b) The storage of toxic and hazardous materials unless a spill containment plan is implemented

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

1. Allowed Uses:

- (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission. [See Article II, Section 2(H)]
- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
- (c) Residential.
- (d) Non-residential development, except those listed in (D)(3).

2. Density and Built-upon Limits:

- a. Single Family Residential--development shall not exceed one dwelling unit per 80,000 square feet on a project by project basis. No residential lot shall be less than 80,000 square feet (excluding roadway right-of-way), except within an approved cluster development.
- b. All Other Residential and Non-Residential--development shall not exceed 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.

- c. New or existing development shall be served by an approved water and sewer system. The density or built-upon limit shall not be increased based on the type of utilities provided, except on a case-by-case basis through the variance process.

3. Prohibited Uses

- (a) New sludge (residual) application sites.
- (b) New landfills.
- (c) Airports.
- (d) Commercial feeder operations.
- (e) Commercial uses which sell, store, or distribute motor fuel or other hazardous materials.
- (f) Industrial uses.
- (g) Incinerators.
- (h) The manufacture, use, or storage of any hazardous material or toxic substances as defined in Chapter 1 of this UDO or determined by the Rockingham County Board of Commissioners.
- (i) Metal salvage facilities including junkyards.
- (j) Underground fuel or chemical storage tanks.

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

1. Allowed Uses:

- (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. [See Article II, Section 2(H)]
- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
- (c) Residential development.
- (d) Non-residential development except those listed in (E)(3).

2. Density and Built-upon Limits:

- (a) Single Family Residential--development shall not exceed one (1) dwelling unit per 40,000 square feet on a project by project basis. No residential lot shall be less 40,000 square feet (excluding roadway right-of-way), except within an approved cluster development.
- (b) All Other Residential and Non-Residential development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- (c) The density or built-upon limit shall not be increased based on the type of utilities provided, except on a case-by-case basis through the variance process.

3. Prohibited Uses:
 - (a) Discharging landfills.
 - (b) Underground fuel or chemical storage tanks
 - (c) The manufacture, storage or use of toxic and hazardous materials unless a spill containment plan is implemented.

F. WS-IV Watershed Areas - Critical Area (WS-IV-CA).

Only new development activities that require an erosion/sedimentation control plan under State law or approved local government program are required to meet the provisions of this watershed ordinance when located in a WS-IV watershed.

1. Allowed Uses:
 - (a) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission. [See Article II, Section 2(H)]
 - (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
 - (c) Residential.
 - (d) Non-residential development, except those listed in (F)(3).
2. Density and Built-upon Limits:
 - (a) Single Family Residential--development shall not exceed one dwelling unit per 30,000 square feet with well and individual subsurface septic system; 25,000 square feet with public water or sewer; 21,780 square feet with public water and sewer on a project by project basis. No residential lot shall be less than one-half (1/2) acre or 21,780 square feet (excluding roadway right-of-way), except within an approved cluster development.
 - (b) All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
 - (c) New or existing development shall be served by an approved water and sewer system. The density or built-upon limit shall not be increased based on the type of utilities provided, except on a case-by-case basis through the variance process.
3. Prohibited Uses:
 - (a) landfills.
 - (b) sites for land application of residuals or petroleum contaminated soils.
 - (c) the storage of toxic and hazardous materials unless a spill containment plan is implemented.

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

Only new development activities that require an erosion/sedimentation control plan under State law or approved local government program are required to meet the provisions of this watershed ordinance when located in a WS-IV watershed.

1. Uses Allowed:
 - (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. [See Article II, Section 2(H)]
 - (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
 - (c) Residential development.
 - (d) Non-residential development.

2. Density and Built-upon Limits:
 - (a) Single Family Residential--development shall not exceed one (1) dwelling unit per 30,000 square feet with a well and individual subsurface septic system; 25,000 square feet with public water or sewer; and, 21,780 square feet with public water and sewer, on a project by project basis. No residential lot shall be less than one-half (1/2) acre (or 21,780 square feet excluding roadway right-of-way), except within an approved cluster development.
 - (b) All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.
 - (c) The density or built-upon limit shall not be increased based on the type of utilities provided, except on a case-by-case basis through the variance process.
 - (d) In addition to the development allowed under paragraphs (a) and (b) above, new development and expansions to existing development may occupy up to ten percent (10%) of the protected area with up to seventy percent (70%) built-upon area on a project by project basis, when approved as a special intensity allocation (SIA). The Watershed Administrator is authorized to approve SIAs consistent with the provisions of this ordinance. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating

built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

H. **Agricultural Activities.**

Water Supply Watershed protection rules pertaining to agriculture are required in all WS-I watersheds and in the critical areas of WS-II, WS-III and WS-IV watersheds. [See (1) Allowed Uses (a) in each of these watersheds.] The Soil and Water Conservation Commission is the designated management agency responsible for implementing the provisions of the watershed rules pertaining to agricultural activities.

1. Agricultural activities conducted after January 1, 1993 shall maintain a minimum 10 foot vegetated buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale (7.5 minute) scale topographic maps or as determined by local government studies; and

2. Animal operations permitted under 15A NCAC 2H.0217 and deemed permitted are allowed in all classified water supply watersheds.

Section 3. Cluster Development.

Cluster development is allowed in all Watershed Areas of the County 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 2. Density or built-upon area for the project shall not exceed that allowed for the critical area, balance of watershed or protected area, whichever applies.
- B. All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
- C. Areas of concentrated density development shall be located in upland area and away, to the maximum extent practicable, from surface waters and drainageways.
- D. The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

Section 4. Buffer Areas Required.

- A. As provided in Chapter 8 of this Unified Development Ordinance, a permanently protected “riparian buffer” shall be required for development within the Jordan Reservoir Watershed. See Chapter 8 for these regulations.
- B. A minimum one hundred (100) foot vegetative buffer is required along all perennial and intermittent 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 streambank or shoreline stabilization is permitted.
- C. No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

Section 5. Rules Governing the Interpretation of Watershed Area Boundaries.

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

- A. Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.
- B. Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the County as evidence that one or more properties along these boundaries do not lie within the watershed area.
- C. Where the watershed area boundaries lie at a scaled distance more than twenty-five (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. 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 Board of Adjustment.

Section 6. Application of Regulations.

- A. No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.
- B. No area required for the purpose of complying with the provisions of this ordinance shall be included in the area required for another building.
- C. If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

Section 7. Existing Development.

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

- A. Uses of land. This category consists of uses existing at the time of adoption of this ordinance where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:
 - (1) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
 - (2) Such use of land shall be changed only to an allowed use.
 - (3) When such use ceases for a period of at least one year, it shall not be reestablished.
- B. Reconstruction of Buildings or Built-upon Areas. Any existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single family residential development, provided:
 - (1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.
 - (2) The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

Section 8. Zoning Permit

- A. Except where a single family residence is constructed on a lot deeded prior to January 1, 1994, no building or built-upon area shall be erected, moved, enlarged or structurally altered, not shall any building permit be issued nor shall any change in the use of any building or land be made until a Zoning Permit has been issued. No Zoning Permit shall be issued except in conformance with the provisions of the watershed regulations in this chapter.
- B. Zoning Permits shall be issued in accordance with Chapter II, Article XV of this Unified Development Ordinance.
- C. Prior to the issuance of a Zoning Permit, the Planning Department may consult with qualified personnel for assistance to determine if the application meets the watershed requirements of this ordinance.
- D. A Zoning Permit shall expire if a Building Permit for such use is not obtained by the applicant with twelve (12) months from the date of issuance.

Section 9. Building Permit Required.

No permit required under the North Carolina State Building Code shall be issued for any activity until a Zoning Permit has been issued.

Section 10. Occupancy Permits.

The Inspections Department shall issue a Certificate of Occupancy certifying that all requirements of the 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.

ARTICLE III. ADMINISTRATION, ENFORCEMENT AND APPEALS

Section 1. Watershed Administrator and Duties thereof

The Rockingham County Zoning Administrator shall act as Watershed Administrator. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this ordinance as follows:

- A. The Watershed Administrator shall keep a record of all permits on file and shall make the records available for public inspection during regular office hours of the Administrator.
- B. 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 Water Quality Section of the Division of Water Quality.

- C. The Watershed Administrator shall keep records of the jurisdiction's use of the provision that a maximum of ten percent (10%) of the non-critical area of WS-II and WS-III watersheds and, ten percent (10%) of the protected area of WS-IV watersheds may be developed with new development at a maximum of seventy percent (70%) built-upon surface area. Records for each watershed shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, number of developed acres, type of land use and stormwater management plan (if applicable).
- D. 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. 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.
- E. The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted for each calendar year to the Water Quality Section of the Division of Environmental Management on or before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

Section 2. Appeal from the Watershed Administrator.

Appeals from the decision Watershed Administrator shall be submitted to the Board of Adjustment and handled the same as an appeal from the decisions of the Zoning Administrator as specified in Chapter 2, Article XIV.

Section 3. Changes and Amendments to the Watershed Protection Ordinance.

All amendments to the Watershed Protection regulations shall be handled as specified in Chapter 2, Article XV of the Unified Development Ordinance. Under no circumstances shall Rockingham County 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 Health and the N.C. Division of Community Assistance.

Section 4. Watershed Variances.

The Board of Adjustment shall have the power to authorize, in specific cases, minor variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and

substantial justice done. In addition, the 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. Applications for a variance 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 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 supply for consumption. Such 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 Board. Such comments shall become a part of the record of proceedings of the Board.

2. Before the Board of Adjustment may grant a minor variance, it shall make the following three 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 exist:
 - (1) If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his 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 hardship.

- (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 properties.
 - (4) The hardship is not the result of the actions of an applicant who knowingly or unknowingly 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. 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. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.
 4. The 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 expire if a Zoning and/or Building Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.
 6. If the application calls for the granting of a major variance, and if the Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:
 - (a) The variance application;
 - (b) The hearing notices;
 - (c) The evidence presented;
 - (d) Motions, offers of proof, objections to evidence, and rulings on them;
 - (e) Proposed findings and exceptions;
 - (f) The proposed decision, including all conditions proposed to be added to the permit.

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

Section 5. Appeals from Variances.

Appeals from variances must be filed with the Superior Court within 30 days from the date of the decision. Decisions by the Superior Court will be in the manner of certiorari.

APPENDIX A NONPOINT WATERSHED MANAGEMENT PLAN

(Adopted November 1, 1993; Effective Date 1/1/1994)

A comprehensive management plan is needed to protect one of Rockingham County's most vital resources - a clean, plentiful water supply. To be effective it must address both point and nonpoint sources of pollution. Point sources (companies or municipalities that discharge directly into a stream) are regulated through the discharge permits issued by the NC Department of Environment, Health, and Natural Resources. Equally as important are the programs addressing nonpoint source pollution. Within Rockingham County are a variety of federal/state/county and municipal programs developed to address this issue.

| NEGATIVE IMPACTS ON WATER QUALITY DEVELOPMENT | PROGRAMS ADDRESSING THESE IMPACTS DEVELOPMENT |
|---|--|
| Incompatible land uses (such as quarries, junk yards) can pollute a drinking supply watershed. | Rockingham County Zoning Ordinance limits incompatible uses to specific zoning districts and requires them to obtain a special use permit. |
| High intensity development undermines natural filtering systems. | The County Zoning Ordinance also: (1) Limits residential density and non-residential built-upon area in designated watersheds; (2) Allows clustering of development in order to create more open space and encourages development away from streams and lakes; (3) Requires 50 ft. buffers along all perennial streams and 100 ft. setback from high water mark around water supply reservoirs. |
| Land disturbing activities cause sediment to enter streams and lakes. | NC Sedimentation Control Act of 1974 requires all developers who are disturbing more than one acre to prepare and implement a sedimentation plan to minimize erosion of soil from the site. The program is administered by the NC Department of Environment, Health, and Natural Resources, Division of Land Quality. The County supports this program by notifying the state of any project not in compliance. |
| ON-SITE WASTEWATER DISPOSAL | ON-SITE WASTEWATER DISPOSAL |
| Poorly designed, installed, and maintained septic systems will allow high bacterial and nutrient concentrations to enter ground and surface waters. | N.C. General Statute 130A, Article 11 gives the state primary authority to enforce the Sanitary Sewage Systems Program. Within the NC Department of Environment, Health, and Natural Resources, the Division of Environmental Management or Environmental Health (through the local county sanitarian) enforce this program. |

| NEGATIVE IMPACTS ON WATER QUALITY | PROGRAMS ADDRESSING THESE IMPACTS |
|--|--|
| SOLID AND HAZARDOUS WASTE | SOLID AND HAZARDOUS WASTE |
| Migration of leachate from landfills and hazardous waste spills will contaminate streams and lakes. | <p>The county zoning ordinance limits landfills and hazardous materials operations to specific districts and requires a special use permit to minimize any negative impacts.</p> <p>NC General Statute 130A gives the NC Department of Environment, Health, and Natural Resources, Division of Solid Waste Management primary regulatory responsibility for solid and hazardous waste. However, the NC Department of Labor, Agriculture, Commerce, Crime Control and Public Safety as well as the Division of Environmental Management and Pollution Prevention Pays Program within the NC Department of Environment, Health, and Natural Resources have some specific duties in regard to regulating hazardous wastes; the Rockingham County Fire Marshall as part of the County Emergency Response Plan has a role in hazardous waste management, especially with emergency responses to spills.</p> |
| FORESTRY | FORESTRY |
| Sediment, organic debris, thermal effects due to decreased shade cover, and forest chemicals such as herbicides and fertilizers. | All forestry activities in a watershed must implement best management practices that meet the performance standards in Forest Practices Guidelines relating to Water Quality (15A NCAC 11.0101-.0209) NC Department of Environment, Health, and Natural Resources, Division of Forest Resources provides technical assistance with these standards to any logging operator. If these guidelines are not met, the NC Department of Environment, Health, and Natural Resources, Division of Land Quality requires these operations to continue only with an approved sedimentation plan as required under the NC Sedimentation Control Act. |
| MINING | MINING |
| Sediment in water supply. | <p>The County zoning ordinance regulates the location of mining operations and requires a special use permit.</p> <p>NC Mining Act of 1971, enforced by NC Department of Environment, Health, and Natural Resources, Division of Land Quality, requires mining and reclamation plans approved prior to excavation. If not in compliance after inspections, enforcement through civil penalties, injunction relief, and/or bond forfeiture.</p> |

| NEGATIVE IMPACTS ON WATER QUALITY | PROGRAMS ADDRESSING THESE IMPACTS |
|---|---|
| AGRICULTURE | |
| Sediment, nutrients, herbicides, and pesticides in water supply. | <p>NC Pesticide Law of 1971 (NCGS 143-434-470) is enforced by the NC Department of Agriculture. Their specific duties include: regulating the licensing of operators and the storage, transportation, handling, use and disposal of various pesticides.</p> <p>Agriculture Cost Sharing Program administered by the Rockingham County Soil and Water Conservation District Board. Duties include: identifying treatment areas; allocating resources, signing agreements with landowners, providing technical assistance on planning and best management practices, and encouraging the use of appropriate best management practices to protect water quality.</p> |
| TRANSPORTATION | TRANSPORTATION |
| Highways through watersheds increase risk of pollutants such as sediment, heavy metals, gas and oil as well as hazardous materials from spills entering water supply. | <p>NC Department of Transportation applies best management practices for all new construction. Annual audit by NC Department of Environment, Health, and Natural Resources, Division of Land Quality insures NC Department of Transportation's program is adequate.</p> <p>Drinking supply watersheds are a consideration in all thoroughfare plans for the county.</p> |
| WATER BASED RECREATION | WATER BASED RECREATION |
| Intense human activity increases risk of contamination. | City of Reidsville - owner of Lake Reidsville - restricts recreational activities such as swimming in the lake. In addition, the county will implement best management practices as recommended by the Recreation Resources Service of North Carolina State University on other water based recreation. |

**APPENDIX B ROCKINGHAM COUNTY INVENTORY AND SPILL
CONTAINMENT PLAN**

(Adopted 11/1/1993; Effective Date 1/1/1994)

- 1. List of industries located within watershed(s) boundaries, which use, store, or manufacture chemicals that could potentially pose a threat to the water supply:**

Within the five watersheds of Rockingham County (two Dan River run-of-the-river watersheds, the Mayo River watershed, the Smith River watershed, and the Troublesome Creek watershed) there are no SARA Title III companies.

- 2. Verify that the Toxic Chemical Release Inventory and Response Plans (required under SARA Title III) and a Tier II annual inventory of hazardous chemicals are up to date and on file at the local government.**

The Rockingham County Emergency Management Coordinator maintains up-to-date files of all SARA Title III and Tier II inventory sheets for sites in Rockingham County. The Incident Commander has access to the data files in the Fire Marshal's office in Wentworth. Each of the various volunteer fire departments in the County has a copy of all Tier II sites in its jurisdictional area.

- 3. Local and state agencies that would respond to spill emergencies:**

In the event of a Haz Mat incident, the Incident Commander has the responsibility to call in the resources needed to deal with the situation. The Incident Commander will determine which resources among those available will be needed in a particular situation.

I. Local Agencies:

| | | |
|----|--------------------------------------|------------------------|
| a. | Local Warning Point | 911 |
| | 1. Fire Department | 336-634-3300 |
| | 2. EMS | 336-634-3300 |
| | 3. Law Enforcement | 336-634-3300 |
| | 4. Fire Marshal/Emergency Management | 336-634-3300 |
| b. | 1. Public Health | 336-342-8140 |
| | 2. Social Services | 336-342-1394 ext. 3097 |
| | 3. County Manager | 336-342-8101 |
| | 4. Red Cross | 336-205-2557 |
| | | 336-349-3434 |
| | | 336-932-5275 |
| | 5. Civil Air Patrol | 336-570-6894 |

II. State Agencies:

- | | | |
|----|--|-----------------------|
| a. | State Warning Point | 800-662-7956 |
| b. | N.C. Division of Emergency Management | 919-733-5291 |
| | Area Coordinator | 919-672-5080 |
| c. | N.C. Division of Environment Management | 1-800-858-0368 |
| d. | Pesticide Emergency Reaction Team | 919-733-3556 |
| e. | OSHA, N.C. Department of Labor | 1-800-LABOR NC |
| f. | Local Department of Transportation | 336-634-5642 |
| g. | NC Department of Insurance | 919-661-5880 |
| h. | NC National Guard | 336-349-4428 |
| | | 336-613-0692 |
| i. | NC Wildlife Commission, habitat conservation | 919-733-3633 ext. 283 |

III. Federal or Other Agencies:

- | | | |
|----|---|-----------------------|
| a. | CHEMTREC | 800-424-9300 |
| b. | Emergency Response Center | 800-433-2940 |
| c. | Poison Control Center | 1-900-622-8000 |
| d. | National Weather Service | 919-515-8209 |
| e. | Corp of Engineers | 910-251-4944 |
| f. | SARA Title III Hotline | 800-424-9346 |
| g. | Hazard Communication and Emergency | |
| | Response Standards | 800-321-6742 |
| | Employment Discrimination Bureau | 919-807-2823 |
| h. | Hazardous Waste Section NC Department | |
| | of Environment, Health, and Natural Resources | 919-733-2178 ext. 226 |
| i. | Underground Storage Tanks, NC Department | |
| | of Environment, Health, and Natural Resources | 919-733-8486 |

IV. Private Industry / Agencies:

- | | | |
|----|---|--------------|
| a. | Shamrock Environmental Corp. - Greensboro | 336-273-2718 |
| b. | American Red Cross | 336-349-3434 |
| c. | Laidlaw Environmental | 336-342-5568 |

4. Type of training/equipment available:

All of the volunteer fire departments that would provide service to residents beyond the incorporated areas and within the watersheds are certified on awareness and operational levels. Equipment among the fire departments varies. Presently, efforts are being made to bring each of them up to the level listed below:

- Self Contained Breathing Apparatus;
- Straw;
- Dry Absorbent; and

- d. Generators (for night work).

The volunteer fire departments, when called to a chemical spill, strive to contain the Haz Mat spill area until the site can be cleaned up by a private contractor.

5. Procedure for notification of the water plant:

If the Haz Mat incident poses a threat to streams or water supply, the incident commander will notify the water treatment plant operator or have someone at 911 Communications relay the notification.

6. Specifications for on-site containment for both new and existing industries:

All new facilities that handle hazardous materials shall comply with the North Carolina State Building Code, Volume 1, New Construction. Existing facilities shall comply with the North Carolina State Building Code, Volume 5, Fire Prevention. All facilities that store hazardous materials shall be inspected annually by the Fire Marshal to insure these materials are properly stored.