

ARTICLE XIV

WATER SUPPLY WATERSHED PROTECTION

Section 1. Authority.

The Legislature of the State of North Carolina has, in 143-214.5, 160A-371 and 160A-381 of the North Carolina General Statutes, delegated the responsibility and authority to local governmental units to establish water supply watershed protection programs, to regulate land use and development within water supply watersheds and to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

Section 2. Intent.

The intent of this amendment, Water Supply Watershed Protection, is to provide in the designated watershed area a higher level of control from activities and situations that could degrade the quality of the water entering the City reservoir as identified in the Watershed Protection Management Policy and Plan for the City of Reidsville.

Section 3. Applicability.

The provisions of this article shall apply within the area designated as a Public Water Supply Watershed by the NC Environmental Management Commission and shall be defined and established on the map entitled, "Watershed Protection Map of Reidsville, North Carolina", which is adopted simultaneously herewith. The Watershed Protection Map and all explanatory matter contained thereon accompany and is hereby made a part of this Ordinance. This Ordinance shall be permanently kept on file in the office of the Reidsville Department of Community Development.

Section 4. Exceptions to Applicability.

These watershed protection requirements shall not apply to existing development, as defined in this ordinance, except as provided in Section 7 of this Article.

Section 5. Definitions.

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

Balance of Watershed Area. The Balance of Watershed Area, hereinafter referred to as "WBA" is a sub-district of the Watershed Protection Overlay District (WS) and consists of the area within the established watershed outside of the critical area.

Best Management Practices (BMP's). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Buffer. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Built-Up Area. Built-upon area 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 slated decks and the water area of a swimming pool are considered pervious.)

Cluster Development. The grouping of buildings, including residential and non-residential development, in order to conserve land resources and provide for innovation in the design of a project.

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

Critical Area. The area adjacent to a water 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).

Director. The Director of Community Development, or his official assigned agent, is for the purposes of this ordinance the Watershed Administrator.

Discharging Landfill. A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

Existing Development. Those developments that are built or those developments that have an outstanding valid building permit or a site specific development plan as authorized by G.S. 160A-385.1.

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).

Landfill. A disposal facility or part of a disposal facility where solid waste is placed in or on land in accordance with Chapter 130A, Article 9 of the N.C. General Statutes. For the purpose of this ordinance, this term does not include composting facilities.

Major Variance. Any variance to the regulations and requirements of this Article exceeding ten percent (10%) in regards to lot sizes, built-upon area or buffer area, shall be a Major Variance.

Minor Variance. A variance of ten percent (10%) or less from any regulation or requirement contained herein that is in regards to lot size, built-upon area, or buffer area.

Nonconforming Lot of Record. A lot described by a plat or a deed that was recorded prior to the effective date of the local watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.

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 of suppression in reproduction or growth) or physical deformities in such organisms or their off-spring or other adverse health effects.

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

Section 6. Permits.

Section 6.a. Watershed Protection Permit.

Section 6.a.1. Except where provided for elsewhere in this Article, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or

land be made until a Watershed Protection Permit has been issued by the Director. No Watershed Protection Permit shall be issued except in conformity with the provisions of this Article.

Section 6.a.2. Watershed Protection Permit applications shall be filed with the Director. The application shall include a completed application form and supporting documentation deemed necessary by the Director.

Section 6.a.3. Prior to the issuance of a Watershed Protection Permit, the Director may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.

Section 6.a.4. A Watershed Protection Permit shall expire if a Building Permit is not obtained by the applicant within twelve (12) months from the date of issuance.

Section 6.b. Building Permit Required.

Except for where provided elsewhere in this Article, no building permit required under the North Carolina state Building Code shall be issued for any activity for which a Watershed Permit is required until that permit has been issued.

Section 6.c. Watershed Occupancy Permit.

Section 6.c.1. 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, the Director shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met.

Section 6.c.2. A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit.

Section 6.c.3. When only a change in use of land or existing building occurs, the Director shall issue a Watershed Protection Occupancy Permit certifying that all requirements of the ordinance have been met coincident with the Watershed Protection Permit.

Section 6.c.4. If the Watershed Protection Occupancy Permit is denied, the Director shall notify the applicant in writing stating the reasons for denial.

Section 6.c.5. No building or structure which has been erected, moved, or structurally altered may be occupied until the Director has approved and issued a Watershed Protection Occupancy Permit.

Section 7. Existing Development; Non-Conformities.

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

Section 7.a. Vacant Lots.

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

1. Where the lot area is below the minimum specified in this ordinance and no other standard needs to be modified to use the lot for residential purposes, the Director is authorized to issue a Watershed Protection Permit.
2. If a nonconforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this ordinance if it is developed for single-family residential purposes. Any lot or parcel created as part of a 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.
3. Notwithstanding the foregoing, whenever two or more adjoining residential vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create a single lot or lots which meet or minimize the degree of nonconformity.

Section 7.b. Occupied Lots.

This category consists of lots, occupied for residential purposes at the time of the adoption of this ordinance.

These lots may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this ordinance, and such lots individually or together have less area than the minimum requirements for residential purposes specified in this Article, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of non-conformity.

Section 7.c. Uses of Land.

This category consists of industrial uses and/or the storage of hazardous or toxic materials where a spill containment plan is not implemented and where such use of the land is not permitted to be established hereafter in the watershed area. Such uses may be continued except as provided for in Article IX of this Ordinance.

Section 7.d. Buildings and Built-Upon Area.

This category includes any buildings or built-upon area not in conformance with the restrictions of this ordinance. Such buildings shall be allowed to remain except as provided for in Article IX of this Ordinance.

Section 7.e. Reconstruction of Damaged Buildings or Built-Upon Area.

Any building of built-upon area not in conformance with the restriction of this ordinance and has been damaged by fire, wind, flood or other causes may be repaired and used as before as provided in Article IX of the Zoning Ordinance.

Section 8. Establishment of Watershed Protection Overlay District.

The Watershed Protection Overlay District (WS) is hereby established as a district that overlays designated water supply watersheds. The designated water supply watersheds under this district are divided into the two (2) overlay sub-districts as follows.

Section 8.a. Balance of Watershed Area (WBA).

The Balance of Watershed Area, hereinafter referred to as "WBA" is a sub-district of the Watershed Protection Overlay District (WS) and consists of the area within the established watershed outside of the critical area.

Section 8.b. Watershed Critical Area.

The Watershed Critical Area, hereinafter referred to as "WSC" is a sub-district of the Watershed Protection Overlay District (WS) and consists of the area of the watershed that is within one-half mile of the normal pool elevation of the reservoir.

Section 8.c. District Supplemental.

Land use and development within the WS must comply with all the requirements of both the underlying zoning district and the applicable watershed overlay sub-district.

Section 9. Balance of Watershed Area (WBA).

Section 9.a. Intent

In order to maintain low to moderate land use intensity, single family detached uses shall developed at a maximum of two (2) dwelling units per acre. All other residential including duplexes and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area. In addition, new development and expansions of existing development may occupy ten percent (10%) of the balance of the watershed area with up to seventy percent (70%) built-upon area when approved as a special intensity allocation (SIA). The Watershed Administrator is authorized to approve SIA's consistent with the provisions of this ordinance. Projects must, to the maximum extent practicable, maximize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts.

Section 9.b. Density

1. Single Family Residential development shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than one-half (1/2) acre, except within an approved cluster development meeting the standards established elsewhere in this ordinance.

2. All Other residential including duplexes and non-residential development shall not exceed twenty-four percent (24%) built-upon area on a project by project bases except that up to ten percent (10%) of the balance of the watershed may be developed with new development and expansions to existing development at up to seventy percent (70%) built-upon area on a project by project basis. 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 development.

Section 9.c. Improvements.

1. Maintenance Required: When water quality control measures are a required part of a development, and such measures serve more than one lot, an owner's association or binding maintenance contract for the purpose of ownership and maintenance shall be required.
2. Maintenance of Control Measures: Maintenance of water quality control measures shall be completed to allow for continuous functioning of the control measures as designed. If the City shall become aware that a water quality control is not being maintained as described herein, the City shall inspect and notify the owner of the land on which the water quality control measure is located. All maintenance shall be performed within ninety (90) days of the date the City gives such notice. Failure by the property owner(s) to perform the required maintenance or repair within the stated period shall enable the City to perform and recover the cost of, such maintenance and repairs from the property owner.

Section 9.d. Permitted Uses.

The following uses and activities are permitted in the WBA provided such uses are also permitted in the underlying zoning district and providing that the restrictions stated herein are met.

1. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
2. Silviculture, using BMP's required to implement the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II.6101-.0209).
3. Transportation, using BMP's established by the North Carolina Department of Transportation.
4. Residential Development.
5. Nonresidential uses, excluding discharging landfills and, sludge application sites, mining and quarrying activities and the storage of toxic and hazardous materials unless a spill containment plan is implemented.

Section 10. Watershed Critical Area (WSC).

Section 10.a. Intent.

In order to maintain a low to moderate land use intensity pattern, single family residential uses shall develop at a maximum of one (1) dwelling unit per acre. All other residential and nonresidential development shall be allowed at a maximum of twelve percent (12%) built-upon area. New sludge application sites and landfills are specifically prohibited.

Section 10.b. Permitted Uses.

The following uses and activities are permitted in the WSC provided such uses are also permitted in the underlying zoning district and providing that the restrictions stated herein are met.

1. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minutes) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ BMP's by July 1, 1994 recommended by the Soil and Water Conservation Commission.
2. Silviculture, using BMP's required to implement the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II.6101-.0209).
3. Residential Development.
4. Nonresidential uses, excluding discharging landfills and, sites for sludge/residuals or petroleum contaminated soils, mining and quarrying activities and the storage of toxic and hazardous materials unless a spill containment plan is implemented. New industrial development is required to incorporate adequately designed, constructed and maintained spill containment structures if hazardous materials are either used, stored or manufactured on the premises.

Section 10.c. Density and Built-upon Areas.

Section 10.c.1. Single Family Residential Development.

Single family residential development shall not exceed one (1) dwelling unit per acre, as defined on a project by project basis. No residential lot shall be less than one acre, except within an approved cluster development meeting the standards established elsewhere in this ordinance.

Section 10.c.2. All other Residential and Nonresidential Development.

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

Section 11. Supplemental Development Requirements.

Section 11.a. Cluster Development.

Clustering of development is allowed in the watershed with the following requirements.

1. 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 established elsewhere in this Article. Built-upon area or stormwater control requirements of the project shall not exceed that allowed for the WSP or WSC, whichever applies.
2. All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
3. The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, title of the open space areas 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.
4. All requirements of Article V, Section 3.8 of this Zoning Ordinance shall be met.

Section 12. Buffer Areas Required.

Section 12.a. Vegetative Buffer Required.

A minimum one hundred (100) foot vegetative buffer is required for all new development activities that exceed the low density option; otherwise, 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.

Section 12.b. No Development in Buffer; Exceptions.

No new development is allowed in the required buffer except for water dependent structures permitted by other State or local ordinances (e.g., boat docks, piers, ramps, etc.) 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 BMP's.

Section 13. Public Health Requirements.

Section 13.a. General.

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

Section 13.b. Abatement.

Section 13.b.1. The Director shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

Section 13.b.2. The Director shall report all findings to any appropriate public agency or official and request recommendations and assistance.

Section 13.b.3. Where the Director finds a threat to water quality and the public health, safety and welfare, the Director shall institute any appropriate action in accordance with the provisions of Section 1.8 of the City of Reidsville Code of Ordinances.

Section 14. 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 Director 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 Director shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Reidsville Board of Adjustments.

Section 15. Administration, Enforcement and Appeals.

Section 15.a. Watershed Administrator and Duties thereof.

For the purposes of this Article, the Director of Community Development of the City of Reidsville, hereinafter referred to as the Director, shall be appointed to serve as the Watershed Administrator. It shall be the duty of the Director to administer and enforce the provisions of this ordinance as follows:

1. The Director shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as described herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Director.
2. The Director shall serve as clerk to the Board of Adjustment.

3. The Director 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 Division of Water Quality for approval.
4. The Director shall keep records of the jurisdiction's utilization of the provision that a maximum of ten percent (10%) of the non-critical area of non-residential development to 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, acres, site plan, use, stormwater management plan as applicable and inventory of hazardous materials as applicable.
5. The Director is granted the authority to administer and enforce the provisions of this Ordinance, exercising in the fulfillment of his responsibility the full police

power of the City of Reidsville. The Director, 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 Director shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted to the Division of Water Quality on an annual basis and shall provide a description of each project receiving a variance and the reasons for granting the variance.

Section 16. Appeal from the Watershed Administrator.

Any Order, requirement, decision or determination made by the Director may be appealed to and decided by the Board of Adjustment. All appeals will follow the procedures outlined in Article X of this Zoning Ordinance.

Section 17. Changes and Amendments to the Watershed Protection Ordinance.

1. The City Council of the City of Reidsville 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. All applications for changes, supplements, amendments, or modifications of this Article shall follow the procedures outlined in Article XI of this Zoning Ordinance.

2. Under no circumstances shall the City Council adopt such amendment, 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 Water Quality.

Section 18. Supplemental Powers and Duties of the Board of Adjustment.

Section 18.a. Administrative Review.

The Board of Adjustment shall hear and decide appeals from any decision or determination made by the Director in the enforcement of this Article.

Section 18.b. Minor Variances.

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

public safety and welfare secured, and substantial justice done. For the purposes of this Article a minor variance shall be a variance of ten percent (10%) or less from any regulation or requirement contained herein that is in regards to lot size, built-upon area, or buffer area.

In addition, in the matter of reviewing applications for variances from the requirements of this Article, the Board of Adjustment will follow the practices and procedures outlined in Article X of this Zoning Ordinance.

Section 18.c. Major Variances.

Any variance to the regulations and requirements of this Article exceeding ten percent (10%) in regards to lot sizes, built-upon area or buffer area, shall be a Major Variance. If the application calls for the granting of a major variance, and if the Board of Adjustment 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, rulings on them;
- (e) Proposed findings and exceptions;
- (f) The proposed decision, including all conditions proposed to be added to the permit.

The preliminary record 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 decision and send it to the Board of Adjustment. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

(2) 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 decision and send it to the Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed.

Section 18.d. Variance Issued.

A variance issued in accordance with this Section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.

Section 19. Appeals from the Board of Adjustment.

Appeals from the Board of Adjustment must be filed with the Superior Court within thirty (30) days from the date of the decision. The decisions by the Superior Court will be in the manner of certiorari.

Section 20. Severability.

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

Section 21. Effective Date.

This Ordinance being Article XIV was adopted and made effective on June 9, 1993, amended on November 9, 1994, further amended on November 10, 1999 and further amended on November 17, 2009 by the City Council of the City of Reidsville, North Carolina.