

HARNETT COUNTY
WATER SUPPLY WATERSHED
MANAGEMENT AND PROTECTION
ORDINANCE

Adopted November 15, 1993

Effective: January 1, 1994

Amended Through December 3, 2007



Harnett
C O U N T Y
NORTH CAROLINA

HARNETT COUNTY BOARD OF COMMISSIONERS

H. L. Sorrell, Chairman
Beatrice Bailey Hill, Vice Chairman
Walt Titchener
Dan Andrews
Joe Bowden

TABLE OF CONTENTS

ARTICLE 100: AUTHORITY AND GENERAL REGULATIONS	4
Section 101. Authority and Enactment.	4
Section 102. Jurisdiction.	4
Section 103. Exceptions to Applicability.	4
Section 104. Criminal Penalties	5
Section 105. Remedies.	5
Section 106. Severability.	5
Section 107. Effective Date.	5
ARTICLE 200: DEVELOPMENT REGULATIONS	6
Section 201. Establishment of Watershed Areas.	6
Section 203. Cluster Development.	8
Section 204. Buffer Areas Required.	9
Section 205. Rules Governing the Interpretation of Watershed Area Boundaries.	9
Section 206. Application of Regulations.	10
Section 207. Existing Development.	10
Section 208. Watershed Protection Permit.	10
Section 209. Building Permit Required.	11
Section 210. Watershed Protection Occupancy Permit.	11
ARTICLE 300: PUBLIC HEALTH REGULATIONS	11
Section 301. Public Health, in general.	11
Section 302. Abatement.	12
ARTICLE 400. ADMINISTRATION, ENFORCEMENT AND APPEALS	12
Section 401. Watershed Administrator and Duties thereof.	12
Section 402. Appeal From the Watershed Administrator	13
Section 403. Changes and Amendments to the Watershed Protection Ordinance.	13
Section 404. Public Notice and Hearing Required.	13
Section 405. Establishment of Watershed Review Board.	14
Section 406. Rules of Conduct for Members.	14
Section 407. Powers and Duties of the Watershed Review Board.	14
Section 408. Appeals from the Watershed Review Board.	17
ARTICLE 500. DEFINITIONS.	17
Section 501. General Definitions.	17
Section 502. Word Interpretation	23

Appendix A 24
 Application Form 24

HARNETT COUNTY 26

WATER SUPPLY WATERSHED MANAGEMENT PLAN 26

HARNETT COUNTY RESPONSE PLAN 26

WATERSHED PROTECTION ORDINANCE

ARTICLE 100: AUTHORITY AND GENERAL REGULATIONS

Section 101. 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 Board of County Commissioners of Harnett County, North Carolina does hereby ordain and enact into law the following articles as the Watershed Protection Ordinance of Harnett County.

Section 102. 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 Harnett 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 Harnett County Planning Department.

Section 103. 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 provision of the Code of Ordinances of Harnett County; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in Harnett 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. If a non-conforming 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.

Section 104. 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 105. Remedies.

- A. If any subdivision, development and/or land use is found to be in violation of this Ordinance, the Harnett County Board of County Commissioners may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$500.00, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. 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.
- 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 Watershed Review Board.

Section 106. 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 107. 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.

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

For purposes of this Ordinance Harnett County is hereby divided into the following areas, as appropriate:

- WS-III-BW (Balance of Watershed)
- WS-IV-CA (Critical Area)
- WS-IV-PA (Protected Area)

Section 202. Watershed Areas Described

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

In order to maintain a low to moderate land use intensity pattern, single family detached uses shall develop at a maximum of three (3) dwelling units per acre. All other residential and non-residential development shall be allowed a maximum of twenty-four percent (24%) built-upon area. In addition, non-residential uses may occupy ten percent (10%) of the watershed with a seventy percent (70%) built-upon area when approved as a Special Nonresidential Intensity Allocation (SNIA). The Harnett County Board of Adjustment is authorized to approve SNIA's as a conditional use consistent with the provisions of this Ordinance. Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. Non-discharging landfills and sludge application sites are allowed.

1. Allowed Uses:

- (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II.6101-.0209).
- (c) Residential development
- (d) Non-residential development excluding discharging landfills

2. Density and Built-upon Limits:

- (a) Single Family Residential-development shall not exceed two (2) dwelling units per acre on a project by project basis. No residential lot shall be less than one-half (1/2) acre, 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 except that up to ten percent (10%) of the protected area may be developed for non-residential uses 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 developed.

B. **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 program are required to meet the provisions of this Ordinance when located in the WS-IV watershed. In order to address a moderate to high land use intensity pattern, single family residential uses are allowed at a maximum of three (3) dwelling units per acre. All other residential and non-residential development shall be allowed at twenty four percent (24%) built-upon area. New residuals application sites and landfills are specifically prohibited.

1. Allowed Uses:

- (a) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990.
- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II.6101-.0209).
- (c) Residential
- (d) Non-residential development, excluding: (1) landfills, and two (2) sites for land application of sludge/residuals or petroleum contaminated soils.

2. Density and Built-upon Limits:

- (a) Single Family Residential-development shall not exceed two (2) dwelling units per acre on a project by project basis. No residential lot shall be less than one-half (1/2) acre, 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. **WS-IV Watershed Area** - Protected Area (WS-IV-PA).

Only new development activities that require an erosion/sedimentation control plan under State law or approved local government program are required to meet the provisions of this Ordinance when located in a WS-IV Watershed. In order to address a moderate to high land use intensity pattern, single family residential uses shall develop at a maximum of three (3) dwelling units per acre. All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area.

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.
 - (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II.6101-.0209).
 - (c) Residential development
 - (d) Non-residential development
2. Density and Built-upon Limits:
 - (a) Single Family Residential-development shall not exceed two (2) dwelling units per acre on a project by project basis. No residential lot shall be less than one-half (1/2) acre 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. EXCEPTION FOR NON-RESIDENTIAL USES: Up to ten percent (10%) of the protected area may be developed for non-residential uses 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 developed.

Section 203. Cluster Development.

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

- A. Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section 202.
- B. All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- C. The remainder of the tract shall remain in a vegetated or natural state. Title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

Section 204. Buffer Areas Required.

- A. Within the WS-IV-PA Watershed District, a minimum of a one hundred (100) foot vegetative buffer for development activities that exceed the low density standards as established in this ordinance is required along all perennial waters indicated on the most recent versions of the U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps, otherwise a minimum of thirty (30) foot vegetative buffer is required. Desirable artificial streambank or shoreline stabilization is permitted.
- B. No new development is allowed in the buffer except that water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious areas and public projects such as road crossings and greenways 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 stormwater Best Management Practices.

Section 205. 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 Harnett 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 the location of such boundaries. This decision may be appealed to the Watershed Review Board.

Section 206. 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 207. Existing Development.

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.

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 three (3) months and completed within one (1) year of such damage.
- 2. The total amount of space devoted to built-upon area may not be increased.

Section 208. Watershed Protection Permit.

- 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 a Watershed Protection Permit has been issued by the Watershed Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this Ordinance.
- B. Watershed Protection Permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form (see Appendix A) and any supporting documentation deemed necessary by the Watershed Administrator.

- C. Prior to issuance of a Watershed Protection Permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this Ordinance.
- D. A Watershed Protection Permit shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

Section 209. 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 a Watershed Protection Permit is required until that permit has been issued.

Section 210. Watershed Protection Occupancy Permit.

- A. The Watershed Administrator shall issue a Watershed Protection Occupancy Permit 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. 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 and shall be issued 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 a Watershed Protection Occupancy Permit certifying that all requirements of this Ordinance have been met coincident with the Watershed Protection Permit.
- D. If the Watershed Protection Occupancy Permit 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 issued a Watershed Protection Occupancy Permit.

ARTICLE 300: PUBLIC HEALTH REGULATIONS

Section 301. 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. 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 302. 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 Harnett County Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations.
- C. Where the Harnett County 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.

ARTICLE 400. ADMINISTRATION, ENFORCEMENT AND APPEALS

Section 401. Watershed Administrator and Duties thereof.

The Harnett County Board of County Commissioners shall appoint a Watershed Administrator, who shall be duly sworn in. 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 issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.
- B. The Watershed Administrator shall serve as clerk to the Watershed Review Board.
- C. The Watershed Administrator shall keep records of the county's utilization of the provision that a maximum of ten percent (10%) of the non-critical area of WS III-BW watersheds may be developed with 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.
- 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 Harnett 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. A description of all projects receiving a variance and the reason for granting the variance shall be submitted to the Environmental Management Commission on January 1, of each year.

Section 402. Appeal From the Watershed Administrator.

Any order, requirements, decision or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.

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. 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.

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, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.

The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

Section 403. Changes and Amendments to the Watershed Protection Ordinance.

- A. The Harnett County Board of County 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 Harnett County Planning Board for review and recommendations. If no recommendation has been received from the Planning Board within forty-five (45) days after submission of the proposal, the Harnett County Board of County Commissioners may proceed as though a favorable report had been received.
- C. The N.C. Division of Environmental Management will be informed of all Amendments to this Ordinance that represent major changes in land use regulations.

Section 404. Public Notice and Hearing Required.

Before adopting or amending this Ordinance, the Harnett County Board of County Commissioners shall hold a public hearing on the proposed changes. 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.

Section 405. Establishment of Watershed Review Board.

There is hereby created a Watershed Review Board which shall be the Harnett County Board of Adjustment, including its alternates, serving at the time of adoption of this Ordinance and its duly appointed successor Boards.

Section 406. Rules of Conduct for Members.

The Watershed Review Board shall operate consistent with the adopted By-Laws for the Harnett County Board of Adjustment.

Section 407. 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 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 Watershed Administrator 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 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 such other entities 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 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 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 an 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 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 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 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 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.
 6. 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. 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.

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 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.
- (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 Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

Section 408. Appeals from the Watershed Review Board.

Appeals from the Watershed Review Board must be filed with the Superior Court within 30 days from the date of the decision. The decision by the Superior Court will be in the manner of certiorari.

ARTICLE 500. DEFINITIONS.

Section 501. General Definitions.

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 non-structural management based practice uses singularly or 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 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.
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-Up on Area	Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas, 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 subdivision and multi-family developments that do not involve the subdivision of land. Any development with ten percent (10%) or greater amount of open space (defined for the purposes of this document).
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 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).
Customary Home Occupations	Any use, whether intended to produce income or not, conducted entirely within a dwelling and carried on by the occupants thereof, whose use is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character

thereof, no more than one (1) assistant may be employed by home occupations. Provided further, that no mechanical equipment is installed or used except such that is used for domestic or professional purposes, and that not over 50 percent of the total floor space of any structure is used for home occupations. No home occupation shall be conducted in any accessory building.

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 a National Pollution Discharge Elimination System (NPDES) permit.

Dwelling Unit

A building, or portion thereof, consisting of one (1) or more rooms which are arranged designed or used as living quarters for one (1) family only. Individual bathroom(s) and complete kitchen facilities, permanently installed, shall always be included for each dwelling unit.

Existing Development

For projects that do not require a state permit, existing development is 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 (1) of the following criteria:

1. substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
2. having an outstanding valid building permit as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1), or
3. having an approved site specific or phased development plan as authorized by the North Carolina General Statutes

Existing Lot

A lot which is part of a subdivision, a plat of which has been recorded

(Lot of Record)

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.

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 to be occupied by a main building or group of main buildings and accessory building together with such yards, open spaces, lot width and lot area is required.
Major Variance	<p>A variance from the minimum state wide water supply watershed protection rules that results in any one (1) or more of the following:</p> <ol style="list-style-type: none"> 1. the relaxation, by a factor of more than ten (10) percent, of any management requirement that takes the form of a numerical standard; 2. petitions to increase built upon percentage greater than ten percent (10%).
Minor Variance	Petitions for the reduction of any standard by a factor of less than ten percent (10%), including residential density or built upon percentage.
Non-conforming 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 this Ordinance.
Non-residential Development	All development other than residential development. Agriculture and silviculture.
Plat	A map or plan of a parcel of land which is to be, or has been subdivided.
Protected Area	The area adjoining and up stream of the critical area of WS-IV watershed. The boundaries of the protected area are defined as within five (5) 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, and their associated outbuildings such as garages, storage buildings, gazebos, and customary home occupations.
Single Family Dwelling	A site built structure, a modular structure to N.C. Building Code requirements or a manufactured home built to H.U.D. requirements located on individual lots or within manufactured home parks are considered to be single family dwellings for purposes of this Ordinance.

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 defined by the Harnett County Subdivision Ordinance.
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 proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.
Watershed	The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.)
Watershed Administrator	An official or designated person of Harnett County responsible for administration and enforcement of this Ordinance.

Section 502. 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.

Appendix A

Application Form

Watershed Protection Permit

APPLICATION FOR A WATERSHED PROTECTION PERMIT

_____ Date of Application

_____ Application Number

On a separate sheet of paper, list the Deed Book and page number, the parcel size and the Tax Map and lot number for each parcel of land (if one parcel, list here).

Watershed Name: _____ Critical area: Y / N

Name of Owner/Applicant: _____

Mailing Address: _____

Street Address: _____

City, State and Zip: _____

Telephone Number: (W) _____ (H) _____

General Description of work under this application: _____

.....

I certify that the information shown above is true and accurate, and is in compliance with the conditions for a subdivision of land as defined in the Watershed Protection Ordinance.

_____ Owner/Attorney in Fact

.....

OFFICIAL USE

Date Received: _____ Date referred to Board: _____

Notes: _____

Application Reviewed By: _____

Watershed Protection Permit Plan Checklist

Applications for Watershed Protection Permits shall be accompanied by plans in duplicate and drawn to scale showing the following:

- (a) Location of Project
— Identify the appropriate classification. WS-III-BW, WS-IV-CA, WS-IV-PA.
- (b) Lot Dimensions
— Actual dimensions and acreage of the lot to be built upon and the location of any right of ways that may affect development on the lot.
- (c) Built Upon Area
— The accurate location and use of all existing and proposed buildings and other structures, and for non-residential developments the location and size, in square feet, of all built-upon areas including parking and loading facilities.
— The percent of the project that will be covered with an impervious surface.
— The area, in acres, to be left natural.
- (d) Dwelling Units
— The total number of dwelling units proposed on the lot or tract.
- (e) Streams/Rivers
— The accurate location of all perennial streams and natural drainage areas on the property.
- (f) Adjacent Property Owners
— The names of adjoining property owners.
- (g) Buffers
— The location of all required buffer areas.
- (h) Private Water and Sewer Systems
— Individual water supply systems and/or ground absorption sewage disposal systems may be permitted subject, to preliminary approval by the County Health Department that there is sufficient space on the lot for such systems.

HARNETT COUNTY WATER SUPPLY WATERSHED MANAGEMENT PLAN

The Harnett County Water Supply Watershed Management Plan has been developed in accordance with the requirements of the Watershed Protection Act (G.S. 143-214.5) and regulations (15A NCAC 2B.0211). This management plan contains: a list of industries that use, store, or manufacture hazardous materials within the county's jurisdiction; a hazardous materials inventory, industry's spill containment plans; and the county's response plan.

Hazardous materials are materials for which industries are required to submit Superfund Amendment and Re-authorization Act (SARA) Title III Tier I and Tier II inventories and hazardous materials regulated by Section 311 of the Clean Water Act.

Industries That Use, Store, or Manufacture Hazardous Materials

<u>Facility Location</u>	<u>Owner/Operator</u>
Becker Minerals, Inc. Route 1, Box 112 Bunnlevel, N.C. 28323 910-893-8308	Becker Minerals, Inc. Post Office Box 848 Cheraw, SC 29520 803-537-7883

Hazardous Materials Inventory

Becker Minerals has submitted a Tier Two Emergency and Hazardous Chemical Inventory to the Harnett County Emergency Management Department. This inventory is on file at the Harnett County Emergency Management Department Office, 27 East Harnett Street, P.O. Box 370, Lillington, N.C. 27546.

Spill Containment Plan

Industries are required to submit spill containment plans to the Harnett County Emergency Management Department.

HARNETT COUNTY RESPONSE PLAN

In the event of a release of hazardous materials in the WS-IV Cape Fear watershed or the WS-III Little River watershed Harnett County will immediately notify:

City of Dunn Water Plant (910) 897-5129
(If the release is in the WS-IV Cape Fear watershed)

Town of Erwin Water Plant (910) 897-5200
(If the release is in the WS-IV Cape Fear watershed)

County of Harnett Water Plant (910) 893-7575
(If the release is in the WS-IV Cape Fear watershed)

Fort Bragg Water Plant (910) 396-2022
(If the release is in the WS-III Little
River watershed)

Harnett County Fire Marshall's Office (910) 893-7580

Local Emergency Planning Committee
Gary Pope, Chairman (910) 893-8659
Harnett County Emergency Management
Post Office Box 370
Lillington, N.C. 27546

Emily Kilpatrick (919) 733-3865
State Emergency Response Committee
NC Division of Emergency Management
116 West Jones Street
Raleigh, N.C. 27603-1335

24-Hour Emergency Number (919) 733-3867

National Response Center 1-800-424-8802

The party responsible for a release of hazardous materials is required by law to telephone the National Response Center. The party will provide information about the release including, the location of the release, material released, source and cause of the release, and corrective action taken. The National Response Center will then notify the appropriate department of the Environmental Protection Agency.

The County will ensure that the responsible party contacts the National Response Center. If the responsible party is unknown, then Harnett County will telephone the National Response Center.

Duly amended this seventeenth day of April, Two Thousand.

HARNETT COUNTY BOARD OF COMMISSIONERS

Dan B. Andrews, Chairman

ATTEST:

Kay S. Blanchard, Clerk to the Board