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CHATHAM COUNTY

WATERSHED PROTECTION ORDINANCE

Ordinance Adopted December 6, 1993
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Draft Jordan Watershed Buffer Amendments (3/10/10)

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THE CHATHAM COUNTY

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; and the N.C. Department of Environment and Natural Resources has, in 15A NCAC 2B. 0267, required local governments to develop a riparian buffer protection program for the Jordan Lake Watershed to, among other things, maintain their nutrient removal and protection functions. The Governing Board of Chatham County does hereby ordain and enact into law the following articles as the Watershed Protection Ordinance of Chatham County.

Section 102. Jurisdiction.

The provisions of this Ordinance shall apply within all of Chatham County outside incorporated municipalities. The Ordinance may apply within incorporated municipalities when provided by an interlocal agreement. The extra-territorial jurisdiction of municipalities may be exempted from the jurisdiction of the Ordinance by an interlocal agreement. Various categories of watersheds are shown on the maps entitled "Watershed Protection Map of Chatham 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 Clerk to the Chatham County Board of County Commissioners.

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 provisions of the Book of Ordinances of Chatham County; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the county at the time of 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 pre-existing lot owned by an individual prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes without being subject to the restrictions of this ordinance except Section 304 where practicable. However, this exemption is not applicable to multiple contiguous lots under single ownership unless the lots violate the minimum lot size established by the N.C. Environmental Management Commission. Lots in violation of N.C. Environmental Management Commission minimum standards shall be combined according to Section 308(A)(2).

Section 105. Criminal Penalties.

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with N.C.G.S. 14-4. The maximum fine for each offense shall be $500.00. Each day that the violation continues shall constitute a separate offense.

Section 106. Remedies.

(A) If any subdivision, development and/or land use is found to be in violation of this Ordinance, the Chatham County Governing Board may, in addition to all other remedies available either in law or in equity, institute a civil penalty, 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 North Carolina G.S. 143-215.6(a). Civil penalties shall be assessed in the amount of $50.00 per day for the first violation. If the same violation occurs on the same property within six (6) years after the initial violation is remedied, a civil penalty in the amount of $100.00 per day shall automatically apply. If the same violation occurs on the same property within six (6) years after the second occurrence of the violation is remedied, a civil penalty in the amount of $200.00 per day shall automatically apply. If the same violation occurs on the same property within six (6) years after the third or any subsequent occurrence of the violation is remedied, a civil penalty in the amount of $500.00 per day shall automatically apply. For the purposes of assessing civil penalties each day such violation continues shall be considered a separate and distinct offense. (#9)

(B) If the Watershed Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the owner or 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 107. 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 108. Effective Date.

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

Section 109. General Definitions (#10)

Access Trails. Pedestrian trails constructed of pervious or impervious surfaces and related structures to access a surface water, including boardwalks, steps, rails, and signage.

Agricultural Activities. Includes the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

(i) forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts.

(ii) dairy animals and dairy products.

(iii) poultry and poultry products.

(iv) livestock, including beef cattle, sheep swine, horses, ponies, mules, and goats.

(v) bees and apiary products.

(vi) fur producing animals.

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

Airport Facilities. All properties, facilities, buildings, structures, and activities that satisfy or otherwise fall within the scope of one or more of the definitions or uses of the words or phrases 'air navigation facility', 'airport', or 'airport protection privileges' under G.S. 63-1; the definition of 'aeronautical facilities' in G.S. 63-79(1); the phrase 'airport facilities' as used in G.S. 159-48(b)(1); the phrase 'aeronautical facilities' as defined in G.S. 159-81 and G.S. 159-97; and the phrase 'airport facilities and improvements' as used in Article V, Section 13, of the North Carolina Constitution, which shall include, without limitation, any and all of the following: airports, airport maintenance facilities, clear zones, drainage ditches, fields, hangars, landing lighting, airport and airport-related offices, parking facilities, related navigational and signal systems, runways, stormwater outfalls, terminals, terminal shops, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way; restricted landing areas; any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area; easements through, or interests in, air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection

privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of airports and restricted landing areas, and the safe and efficient operation thereof and any combination of any or all of such facilities. Nothwithstanding the foregoing, the following shall not be included in the definition of 'airport facilities':

(i) Satellite parking facilities;

(ii) Retail and commercial development outside of the terminal area, such as rental car facilities; and

(iii) Other secondary development, such as hotels, industrial facilities, free-standing offices and other similar buildings, so long as these facilities are not directly associated with the operation of the airport, and are not operated by a unit of government or special governmental entity such as an airport authority, in which case they are included in the definition of 'airport facilities'.

Animal Unit. A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

Bankfull Discharge. The flow of water which fills a stable alluvial channel to the elevation of the active floodplain. This discharge is morphologically significant because it identifies the bankfull elevation. On average, bankfull discharge occurs every 1.5 years in frequency.

Bankfull Elevation. The elevation where flooding occurs on an active floodplain. This elevation may or may not be the top of bank.

Best Management Practices. Effective and practical structural or nonstructural methods which prevent or reduce the movement of sediment, nutrients, pesticides and other pollutants from the land to surface or ground water, or which otherwise protect water quality from potential adverse effects of development, silvicultural, agricultural and other land disturbance activities. These practices are developed as industry standards to achieve a balance between water quality and natural habitat protection and the economic benefits and desired use of the land.

Building. Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of

persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

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

Channel. A natural water-carrying trough eroded vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.

Clerk to the Watershed Review Board. The Watershed Administrator or other person appointed by the County.

Cluster Development. The grouping of buildings in order to conserve land and pro vide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land. "Planned Residential Developments," as provided for under the Chatham County Zoning Ordinance and "Planned Unit Developments," as provided for under the Chatham County Subdivision Regulations, shall each be deemed to be Cluster Development under this Chatham County Watershed Protection Ordinance.

Compact Community. A compact residential development with a mixed commercial use village center with a conditional use permit required as a prerequisite to any use or development.

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

Conservation Subdivision. An alternative approach to the subdivision of land where large, contiguous blocks of open space are preserved. Developments designed under this approach are granted a density bonus for the developed areas; however under no circumstance is the development allowed to exceed the minimum state mandated watershed district requirements. (#12)

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 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 mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one mile.

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. See definition of Land Disturbing Activity.

Diffuse Flow. Non-concentrated, low velocity flow of storm water runoff that is spread out or distributed evenly along the same elevation. Diffuse flow prevents or reduces scour and erosion and provides for increased ground contact for infiltration and pollutant removal.

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.

Ditch or Canal. An excavated (man-made) channel that is typically dug through inter-stream divide areas. A ditch or canal may exhibit hydrological or biological characteristics similar to perennial or intermittent streams. For the purposes of this Ordinance, a ditch or canal is not considered to be an ephemeral, intermittent or perennial stream.

Dwelling Unit. A building, or portion thereof, providing complete and permanent living facilities for one family.

Ephemeral (storm water) Stream. A physically visible feature in the form of a natural channel that conveys water only in direct response to precipitation during or shortly after precipitation events. For the purposes of this Ordinance, an ephemeral (storm water) stream is a well-defined channel which scores between “3 - 18” points on the NCDWQ Stream

Identification Form[1], to distinguish it from an intermittent or perennial stream. (See, *Identification Methods for the Origins of Intermittent and Perennial Streams*, NCDWQ, Version 3.1, 2006). An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with continuous or intermittent conveyance of water.

Existing Development. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

(1) substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or

(2) having an outstanding valid building permit as authorized by N.C.G.S. § 153A-344.1 and N.C.G.S. § 160A-385.1), or

(3) having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by N.C.G.S. § 153A-344.1 and N.C.G.S. § 160A-385.1).

Existing Lot (Lot of Record). A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

Family Subdivision. Family subdivision means one or more divisions of a tract of land: (a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives of direct lineage, or to the surviving spouse, if any, of any deceased lineal descendant, as a gift or for nominal consideration, but only if no more than one parcel from such tract is conveyed by the grantor to any one relative or such relative's surviving spouse; or (b) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will. This provision shall apply only where the grantor or decedent already owned the land so divided upon the effective date of this ordinance.

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[1] From the NC Division of Water Quality Manual, *Identification Methods for the Origins of Intermittent and Perennial Streams*, Version 3.1, (NC Dept. of Environment and Natural Resources, Div. of Water Quality, 2005)

Forest Management Plan. As defined in Chapter 160A-458.5(4).

Forest Plantation. An area of planted trees that may be conifers (pines) or hardwoods. On a plantation, the intended crop trees are planted rather than naturally regenerated from seed on the site, coppice (sprouting), or seed that is blown or carried into the site.

Greenway / Hiking Trails. Pedestrian trails constructed of pervious or impervious surfaces and related structures including but not limited to boardwalks, steps, rails, and signage, and that generally run parallel to the shoreline.

Hazardous Waste. Any material as defined by 15A NCAC §13A .0106 *Identification and Listing of Hazardous Wastes* - Part 261 or any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 or CWA (oil and hazardous substances) or a RECRA Hazardous Waste that appears on one of the four hazardous wastes lists: (F-List; K-List; P-List or U-List) or exhibits at least one of the four characteristics: ignitability; corrosivity; reactivity or toxicity.

Home Occupations. Any use conducted on residential premises and carried on by the occupants thereof, which use is incidental and secondary to the use of the premises for residential purposes and does not change the character thereof.

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.

Impervious Surface. See *Built-upon Area*.

Intermittent Stream. A well defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by storm water runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water. For the purposes of this ordinance, an intermittent stream will have a minimum score of “19” on the NCDWQ Stream Identification Form, Version 3.1.

Landfill. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A,

Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

Lot. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

Major Variance. A variance that results in any one or more of the following:

1) the complete waiver of a management requirement;

2) the relaxation, by a factor of more than ten (10) percent, of any management requirement that takes the form of a numerical standard;

3) the relaxation of any management requirement that applies to a development proposal intended to qualify under the high density option;

4) the allowance of a use that is prohibited by the Table of Uses in § 304(J)(3) that will impact any portion of Zone One or any portion of both Zones One and Two of a riparian buffer in the Jordan Lake watershed.

Minor Variance. A variance that does not qualify as a Major Variance. With respect to impacts to a riparian buffer in the Jordan Lake watershed, it is the allowance of a use that is prohibited by the Table of Uses in § 304(J)(3) that will impact only Zone Two of the riparian buffer.

Natural. When used in reference to streams and channels means those streams and channels formed by the existing surface topography of the earth prior to changes made by man.

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

Normal Pool Elevation. The natural or design elevation of a perennial water body.

Perennial Stream. A well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries storm water runoff. A perennial stream exhibits the typical biological, hydrological and physical

characteristics commonly associated with continuous conveyance of water. For the purposes of this ordinance, a perennial stream will have a minimum score of "30" on the NCDWQ Stream Identification Form,[2] Version 3.1.

Perennial Water Body. A pond or lake that is part of a natural drainageway and is fed by either an intermittent or perennial stream or directly discharges into either an intermittent or perennial stream.

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

Residential Development. Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

Riparian Buffer. A natural or vegetated area that provides a protective distance between a seep, spring, stream, perennial water body or wetland and an adjacent land area which may be converted to some other use. The riparian buffer shall be measured horizontally on a line perpendicular from the top of bank or from the normal pool elevation of a perennial water body or wetland.

Seeps and Springs. For purposes of this Ordinance, seeps and springs are areas where groundwater intersects at or near to the ground surface either seasonally or permanently. These areas may or may not be considered jurisdictional by federal (ACoE) standards. Due to the broad variability in the size, number, location, connectivity, condition and other natural characteristics of seeps and springs, one or more of the following conditions must apply:

a. Hydrophytic vegetation must be dominant. This is judged by the greater areal cover of plants (rooted in the putative seep or spring) with indicator status of obligate wetland (OBL) or facultative wetland (FACW) compared to the areal cover of plants (rooted in the putative seep or spring) with indicator status of upland (UPL) or facultative upland (FACU). Plants with facultative (FAC) indicator status are not

[2] From the NC Division of Water Quality Manual, *Identification Methods for the Origins of Intermittent and Perennial Streams*, Version 3.1, (NC Dept. of Environment and Natural Resources, Div. of Water Quality, 2005).

considered. This definition may be summarized by the following formula: (OBL + FACW) > (UPL + FACU). See Wetland Plants List.[3]

b. The seep or spring is considered a water of the State of North Carolina by the NCDWQ.

c. The seep or spring meets the criteria of a wetland based on the 1987 U.S. Army Corps of Engineers Manual.

d. The seep or spring has surface water present seasonally or permanently.

Shoreline Stabilization. The in-place stabilization of an eroding shoreline. Stabilization techniques which include "soft" methods or natural materials (such as root wads, or rock vanes) may be considered as part of a restoration design. However, stabilization techniques that consist primarily of "hard" engineering, such as concrete lined channels, riprap, or gabions, while providing bank stabilization, shall not be considered stream restoration.

Single Family Residential. Any development where: 1) no building contains more that one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.

Silvicultural Activities. Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality.

Stream. A body of concentrated flowing water in a natural low area or natural channel on the land surface.

Street (Road). A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Structure. Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

Subdivider. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

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[3] *See* "National List of Vascular Plant Species that Occur in Wetlands" (U.S. Army Corps of Engineers, *1988 Official Wetland Plant List & 1993 Supplement*).

Subdivision. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition:

1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance;

2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;

3) The public acquisition by purchase of strips of land for the widening or opening of streets;

4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the this ordinance;

5) The division of a tract into plots or lots used as a cemetery.

Temporary Road. A road constructed temporarily for equipment access to build or replace hydraulic conveyance structures such as bridges, culverts, pipes or water dependent structures, or to maintain public traffic during construction.

Top of Bank. For the purposes of this Ordinance, the point on a stream's cross-section defined by the bankfull elevation or the highest point in elevation immediately adjacent to the stream channel, which ever is greater.

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.

Trail Management Plan. A bound document providing details and descriptions of trail design, materials, alignment, management procedures, responsible party and schedule of maintenance activities to ensure adequate trail operations and maintenance in perpetuity.

The Plan will include, at a minimum, the following:

a. Existing site conditions (including the status of the protected area)

b. Needs and purpose (including intended use)

c. Trail location based on site survey

d. Design details

e. Justification

f. Responsible entity for design, implementation, maintenance and access control

g. Short and long-term impacts (e.g., future trail relocations) should be identified

h. Proposed mitigation due to impacts related to water quality and drainage

Tree. A deciduous or coniferous tree that is at least five (5) inches in diameter or greater measured at fifty-four (54) inches in height from the ground.

Variance. A permission to develop or use property granted by the Watershed Review Board relaxing or waiving a requirement of this ordinance.

Water Dependent Structure. Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

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

alternatively, the geographic region within which water drains to a particular river, stream or body of water.

Watershed Administrator. An official or designated person of the county responsible for administration and enforcement of this Ordinance.

Watershed Review Board. The Chatham County Board of Commissioners shall designate this review Board.

Wetlands. "Waters" as defined by N.C.G.S. § 143-212(6) and are areas that are inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do generally include swamps, marshes, bogs and similar areas. Wetlands classified as waters of the State are restricted to waters of the United States as defined by 33 CFR 328.3 and 40 CFR 230.3.

Section 110. Word Interpretation. (#10)

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.

ARTICLE 200: SUBDIVISION REGULATIONS.

Section 201. General provisions.

(A) No subdivision plat of land within the jurisdiction of this Ordinance shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this Ordinance. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this Ordinance.

ARTICLE 300: DEVELOPMENT REGULATIONS

Section 301. Establishment of Watershed Area.

The purpose of this Article is to list and describe the watershed areas herein adopted. The areas of Chatham County within the jurisdiction of this Ordinance as specified in Section 102 are hereby established as watershed areas.

For purposes of this Ordinance the county is hereby divided into the following areas:

(A) WS II - BW (Balance of Watershed):

This area is the portion of Chatham County draining to University Lake. Generally it is bounded on the east by U.S. 15-501, the south by S.R. 1532 (Manns Chapel Road), on the west by S.R. 1534 and on the north by the Chatham/Orange County line.

(B) WS III - CA (Critical Area):

This area is the land extending beyond the area designated as River Corridor, but within a distance of 2,640 feet from the normal pool elevation of approximately 540 feet of the Rocky River Lower Reservoir. (#8)

(C) WS III - BW (Balance of Watershed)

This area is the land draining to the Siler City water system intake on the Rocky River.

(D) WS IV - CA (Critical Area):

This area is the land within: (1) One mile and draining to the water intakes for Pittsboro (Haw

River), Sanford (Cape Fear River), and Goldston-Gulf (Deep River). (2) One-half mile from the normal pool level and draining to Jordan Lake.

(E) WS IV - PA (Protected Area):

This land is the area that is within 10 miles and draining to the water intakes listed in (D) (1) above and within 5 miles and draining to (D) (2) above.

(F) River Corridor (RC):

These areas consist of land within a line drawn parallel to rivers a distance of 2,500 feet from the banks except for specific excluded areas on the watershed maps.

(G) River Corridor Special Area (RCSA):

This land is within the river corridor, but due to various existing infrastructure, is given a special designation on the watershed map and in the text.

(H) Local Watershed Area: (LWA):This land is all the area of Chatham County outside (A) - (G) above and outside the designated municipal watershed jurisdictions.

(I) Jordan Lake Watershed: This area consists of all lands and waters draining to the B. Everette Jordan Reservoir. It overlays portions of WS IV-CA, WS IV-PA, River Corridor and Local Watershed areas as depicted on the Watershed Protection Map, and is the area subject to the riparian buffer requirements set forth in Section 304(J). The allowed uses and density and built-upon limits for a particular portion of the Jordan Watershed Area are those specified in Section 302 for the particular underlying watershed area.

Section 302. Watershed Areas Described.

(A) 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. 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 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

(c) Residential development.

(d) Non-residential development - limited to those permitted uses in attachment A.

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one dwelling unit per 40,000 square feet on a project by project basis. No residential lot shall be less than 40,000 square feet, 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. No residential lot or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development.

(3) Prohibited Uses:

(a) New sludge application site

(b) New landfills

(c) Petroleum contaminated soil remediation

(d) Toxic or hazardous materials unless specifically in relation to a permitted use and unless a spill containment plan is approved and implemented.

(B) 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. 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 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

(c) Residential.

(d) Non-residential development - limited to those permitted uses listed in attachment A.

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one dwelling unit per acre on a project by project basis. No residential lot shall be less than 40,000 square feet, 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. No residential lot or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development.

(3) Prohibited Uses:

(a) New sludge application sites

(b) New landfills

(c) Petroleum contaminated soil remediation

(d) Toxic or hazardous materials unless specifically in relation to a permitted use and unless a spill containment plan is approved and implemented.

(C) 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. 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 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.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 acre, as defined on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet, except within an approved cluster development (#6), compact community, or conservation subdivision. (#12)

(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 five percent (5%) of the balance of the watershed may be developed for non-residential uses to seventy percent (70%) built-upon area on a project by project basis when approved as a special non-residential intensity allocation. The Watershed Administrator is authorized to approve SNIAs 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. 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. No residential or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development (#6), compact community, or conservation subdivision. (#12)

(3) Prohibited Uses:

(a) New sludge application sites.

(b) New landfills

(c) Petroleum contaminated soil remediation

(d) The storage of toxic and hazardous materials unless a spill containment plan is approved and implemented.

(D) WS-IV Watershed Areas - Critical Area (WS-IV-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. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

(c) Residential.

(d) Non-residential development - limited to those permitted uses listed in attachment A except 1,000 feet from the intersection of U.S. 64 and S.R. 1008 where non-residential allowed, according to the business uses of attachment B.

(#3) (e) In the Jordan Lake Critical Area only, and subject to the limitations hereinafter set forth, there shall be allowed: computer sales and service; internet service providers; art and craft sales; clothing sales; fishing equipment sales; sale, rental and service of water sports equipment; and consultation services such as financial, marriage, personal and any other type of individual or group counseling. Uses allowed under this subparagraph (e) shall be subject to the following:

(I) Uses enumerated shall be allowed on at least one road classified as a collector road, or higher classification; and

(II) The use area shall be restricted to a location within 500 feet of a road intersection, and

(III) The land area involved at a quadrant of an intersection shall not be greater than two acres, and

(IV) All uses involving the storage of toxic, hazardous, or highly flammable substances shall be prohibited.

(#5) (f) In the Jordan Lake Critical Area only, and subject to the limitations hereinafter set forth, there shall be allowed: high-tech precision computerized machine shop to Attachment A. Uses allowed under this subparagraph (f) shall be subject to the following:

(I) The amendment shall be applicable to the Jordan Lake Critical Area only.

(II) To keep the area of land used for this use at a minimum the property shall be no larger than 5 acres in size or the percentage of area devoted to said use shall be reduced such that it does not exceed that used for a 5 acre tract.

(III) Liquids used in the operational processes of the industry shall be stored under cover with spill containment equal to at least one half the volume of the liquid stored."

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed one dwelling unit per acre on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet, except within an approved cluster development or conservation subdivision. (#12)

(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. No residential lot or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development or conservation subdivision. (#12)

(3) Prohibited Uses:

(a) New sludge application sites

(b) New landfills

(c) Petroleum contaminated soil remediation

(d) Toxic or hazardous materials unless specifically in relation to a permitted use and unless a spill containment plan is approved and implemented.

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

(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. 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 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines

Related to Water Quality (15 NCAC 1I.6101-.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 acre, as defined on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet except within an approved cluster development (#6), compact community, or conservation subdivision. (#12)

(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. No residential or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development (#6), compact community, or conservation subdivision. (#12)

(3) Prohibited Uses:

(a) The storage of toxic and hazardous materials unless a spill containment plan is approved and implemented.

(F) River Corridor (RC)

(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. 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 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

(c) Residential development.

(d) Non-residential development listed as permitted uses in attachment A.

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall average one dwelling unit per five (5) acres on a project by project basis, except within conservation subdivisions that shall not exceed one (1) dwelling unit per acre, as defined on a project by project basis. No residential lot shall be less than three (3) acres, except within an approved cluster development, a family subdivision may have lots a minimum of two acres in size, or conservation subdivision. (#1)(#12)

(b) All Other Residential and Non-Residential--development shall not exceed twelve percent (12%) built-upon area on a project by project basis. The minimum lot size shall be five (5) acres. No residential lot or non-residential lot shall be less than (5) acres except within an approved cluster development or conservation subdivision.

(3) Prohibited Uses:

(a) New sludge application sites

(b New landfills

(c) Petroleum contaminated soil remediation

(d) Buildings, equipment or material storage within the 100 year flood hazard area as designated on the most recent "Flood Hazard Boundary Map Chatham County Unincorporated Areas"

(e) Toxic or hazardous materials unless specifically in relation to a permitted use, and unless a spill containment plan is approved and implemented.

(G) River Corridor Special Area - (RCSA):

(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. 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 minute) scale topographic maps or as determined by local government studies. Animal operations

greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

(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 acre, as defined on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet except within an approved cluster development or conservation subdivision. (#12)

(b) All Other 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. In addition, non-residential uses may occupy fifty percent (50%) built-upon area when approved as a special non-residential intensity allocation (SNIA). The Watershed Administrator is authorized to approve SNIAs 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. 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. No residential or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development or conservation subdivision.

(3) Prohibited Uses:

(a) New sludge application sites

(b) New landfills

(c) Petroleum Contaminated soil remediation

(d) Buildings, equipment or material storage within the 100 year flood hazard area as designated on the most recent "Flood Hazard Boundary Map Chatham County Unincorporated Areas"

(e) Toxic or hazardous materials unless a spill containment plan is approved by the County Fire Inspector and implemented.

(H) Local Watershed Area - (LWA):

(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. 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 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by

July 1, 1994 recommended by the Soil and Water Conservation Commission.

(b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

(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 acre, as defined on a project by project basis, except within conservation subdivisions that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet except within an approved cluster development (#6), compact community, or conservation subdivision. (#12)

(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. In addition, non-residential uses may occupy ten percent (10%) of the watershed outside A-G above with a seventy percent (70%) built-upon area when approved as a special non-residential intensity allocation (SNIA). The Watershed Administrator is authorized to approve SNIAs 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. 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. No residential or non-residential lot shall be less than 40,000 square feet, except within an approved cluster development (#6), compact community, or conservation subdivision.

(3) Prohibited Uses:

(a) The storage of toxic and hazardous materials unless a spill containment plan is approved and implemented.

Section 303. Cluster Development.

Clustering of 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 302. Built upon area or stormwater control requirements of the project shall not exceed that allowed by this ordinance for the watershed area in which the project is located. (#7,13)

(B) All built-upon area 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. Where the development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

Section 304. Riparian Buffers Required.(#10)

(A) Buffers Required. As provided in this Ordinance, a permanently protected “riparian buffer” shall be required for development adjacent to perennial, intermittent and ephemeral streams, perennial water bodies, wetlands (jurisdictional and non-jurisdictional), and seeps and springs.

Field location and classification of streams to locate perennial and intermittent streams will be conducted in accordance with subsection (B) using the most current NC Division of Water Quality methodologies and may be indicated on the latest USGS 1:24,000 scale (*7.5 minute*) quadrangle map, the NRCS Soil Survey for Chatham County, NC, or a map approved by the Geographic Information Coordinating Council and by the N.C. Environmental Management Commission. These maps may be used in combination as a screening tool only and do not represent the actual extent and location of surface waters and streams in Chatham County. Field location and classification of ephemeral streams, wetlands and seeps and springs will be conducted in accordance with subsection (B) and using methodologies described in this Ordinance.

(B) Field Delineations. Field delineations of wetlands shall continue to be conducted using the 1987 U.S. Army Corps of Engineers methodologies[4] and supplements for each development project. Wetlands considered to be non-jurisdictional by the US Army Corps of Engineers or the NC Division of Water Quality are subject to Chatham County riparian buffers. For the purposes of this Ordinance, all perennial water body and stream classifications must be conducted by a qualified professional who has successfully completed the Division of Water Quality's *Surface Water Identification Training Certification* course, its successor, or other equivalent training curriculum approved by the Division of Water Quality. The specific origination point of a perennial or intermittent stream shall be established using the latest version of the Division publication, *Methodology for Identification of Intermittent and Perennial Streams and Their Orgins,* available at http://portal.ncdenr.org/web/wq/swp/ws/401/waterresources/streamdeterminations, or from the NC Division of Water Quality - 401 Oversight Express Permitting Unit, or its successor. All seep, spring and wetland delineations must be conducted by a qualified professional who has at least 2 years of demonstrated experience in conducting wetlands delineations in North Carolina under the Clean Water Act Sections 401 and 404 provisions. All field determinations of perennial water bodies, wetlands, streams, seeps and springs shall be subject to review and approval by the County, which review may include an on-site review.

[4] Currently, the applicable version is known as: *Environmental Laboratory (1987) Corps of Engineers Wetlands Delineation Manual,* Technical Report Y-87-1, and supplements, U.S. Army Engineer Waterways Experiment Station, Vicksburg, MS.

Surface waters that appear on the maps used to determine surface water classifications shall not be subject to the requirements of this Section 304 if a site evaluation reveals any of the following cases:

1. Man-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100, including ponds and lakes created for animal watering, irrigation, or other agricultural uses. (A pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.)

2. The absence on the ground of a corresponding intermittent or perennial stream, lake, reservoir, or pond.

3. Ditches or other man-made water conveyances, other than modified natural streams.

Any disputes over on-site determinations made in accordance with this section with regard to perennial water bodies and perennial and intermittent streams located within the Jordan Lake Watershed should be referred to the Director of the NC Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. The Director's determination is subject to review as provided in Articles 3 and 4 of G.S. 150B. All other disputes over on-site determinations made in accordance with this section with regard to the Jordan Lake Watershed or within any other watershed area subject to this Ordinance shall be referred to the Watershed Review Board in writing. Appeals from a decision of the Watershed Review Board shall be in accordance with Section 508 of this Ordinance.

(C) <u>Exemptions to Riparian Buffer Requirements for Areas Outside of the Jordan Lake Watershed</u>.

1. Existing lots, including tracts or parcels that were considered exempt from the definition of subdivision, and existing development as set forth in § 103 and § 308 of this Ordinance. For the purposes of this Ordinance, the existing lots, including

tracts or parcels that were considered exempt from the definition of subdivision, and existing developments are required to meet the riparian buffer requirements set forth in the Watershed Protection Ordinance in effect from January 1, 1994 up to the date immediately prior to the adoption of these amendments. *See footnote 6*.

2. Tracts or parcels that are exempt from the definition of subdivision as listed below, provided that they are required to the meet the riparian buffer requirements set forth in the Watershed Protection Ordinance in effect from January 1, 1994 up to the date immediately prior to the adoption of these amendments:

   a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots meet or exceed the standards of the subdivision regulations;

   b) The public acquisition by purchase of strips of land for the widening or opening of streets;

   c) The division of a tract into plots or lots used as a cemetery.

3. Existing Agricultural Activities. *(see definition of A*gricultural Activities in § 109).

4. Existing Silvicultural Activities. (see definition of S*ilvicultural Activities in § 109)*.

(D) <u>Buffers by Surface Waters Classification</u>.

1. *Perennial Streams* - The riparian buffer shall be one hundred (100') feet landward, measured horizontally on a line perpendicular from top of bank; this distance shall be measured on all sides of perennial streams, or shall be the full

horizontal extent of the Area of Special Flood Hazard[5] as most recently mapped by the North Carolina Floodplain Mapping Program, NC Division of Emergency Management, whichever is the greater horizontal distance.

2. *Intermittent Streams* – The riparian buffer shall be fifty (50') feet landward, measured horizontally on a line perpendicular from top of bank; this distance shall be measured on all sides of intermittent streams.

3. *Ephemeral Streams* – The riparian buffer shall be thirty (30') feet landward, measured horizontally on a line perpendicular from top of bank; this distance shall be measured on all sides along all ephemeral streams.

4. Wetlands – The riparian buffer shall be fifty (50') feet landward, measured horizontally on a line perpendicular from the delineated boundary, surrounding all features classified as wetlands and linear wetlands.

5. Seeps and Springs – The riparian buffer shall be thirty (30') feet landward surrounding all seeps and springs measured horizontally on a line perpendicular from the delineated boundary.

6. *Perennial Water Body* – The riparian buffer shall be fifty (50') feet landward, measured horizontally on a line perpendicular from the delineated boundary.

(E) <u>Identification Procedures.</u>

1. The origins, endpoints and boundaries of classified streams and water bodies shall be clearly marked with flagging and accurately located on a map. All delineated streams, water bodies and boundaries shall be

[5] Chatham County Flood Damage Prevention Ordinance (adopted December 18, 2006).

submitted to the County for review and approval. If adjacent property access is necessary to render a classification, permission from the relevant property owner(s) is required. Otherwise, classifications will be based on the observable features within the property in question.

2. Before any land disturbance activities may begin, and in addition to any erosion control notification, the riparian buffer boundaries shall be clearly flagged in the field and approved by county staff. Tree protection fencing or other approved protective measures shall be installed along the approved flagging lines.

3. Allowable methodologies for establishing the location and extent of streams and water bodies in the field is described in the guidance document entitled, *"Field Procedures for the Classification of Streams and Waterbodies, Chatham County, NC".*

(F) Allowed Structures and Uses in Riparian Buffer for Areas Outside of the Jordan Lake Watershed.[6]

The following structures and uses are allowed in the riparian buffer:

1. Water dependent structures (see definition of "water dependent structures" herein).

2. Signs and lighting as necessary for public health, safety and welfare purposes.

3. Drainage and forestry maintenance associated with agricultural and silvicultural

[6] Sections 304 (C),(F)and (H) do not apply to riparian buffers within the Jordan Lake Watershed. See Section 304(J)of this Ordinance for requirements applicable to riparian buffers within the Jordan Lake Watershed. The Jordan Lake Watershed is depicted on the Chatham County Watershed Areas Map.

activities, provided the applicable Best Management Practices are followed.[7]

4. Stream crossings (roads, driveways, trails) that are perpendicular to the stream flow. Stream crossings shall be designed to minimize the amount of stream channel bed and bank disturbance and shall comply with all applicable Best Management Practices and permit requirements. Stream crossing design alternatives that are preferred include: arches, span bridges and submerged culverts.[8] The following shall apply for stream crossings:

   a. Bents or other support structures for bridges are not allowed within the bankfull area of perennial streams, except where necessary by permit on the Haw, Cape Fear and Deep Rivers.

   b. For public road crossings, the crossing design shall be according to the alternative that best meets the intent of this Ordinance and as required by permit.[9]

   c. Culverts or arches are allowed for crossing perennial, intermittent and ephemeral streams. Culverts and arches must be sized and designed in accordance to standard design practices, including allowing for safe passage for wildlife and floodplain flows. *See footnotes 8, 9 and 10*.

   d. Fill required for crossings must not restrict flows up to a 25-year, 24 hour

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[7] Food Security Act of 1985; Food, Agriculture, Conservation and Trade Act of 1990; and *Forest Practices Guidelines Related to Water Quality* (15 NCAC 1I.0101-.0209).

[8] *See* CSI Mitigation Measure No. 7 contained in the *Guidance Memorandum To Address And Mitigate Secondary And Cumulative Impacts To Aquatic And Terrestrial Wildlife Resources And Water Quality*, N.C. Wildlife Resources Commission (August 2002).

[9] *Subdivision Roads Minimum Construction Standards*, N.C. Division Of Highways Board Of Transportation (January 1, 2000.) (This document is currently being amended. Subsequent amendments to this Construction Manual shall apply.)

storm event, based on hydrologic and hydraulic models. Additional culverts within the "floodplain" and at bankfull elevation may be required to ensure these flows are not restricted. *See footnotes 8, 9 and 10*.

e. All stream crossings within a riparian buffer require an informal consultation meeting with County staff for private roads and County/NCDOT representatives for public roads, prior to sketch design submittal. See Subdivision Regulations, Section 4.2 A.

f. Concentrated discharge of road or driveway runoff into riparian buffers is not allowed. Diffuse flow into riparian buffers are allowed using Best Management Practices. [10]

5. Utilities crossings (water, sanitary sewer, electric, communication lines, easements, manholes, and appurtenances) are allowed in the riparian buffer only where no practicable alternative exists. Where stream crossings are necessary, the preferred methodology for crossings are (1) by attaching to bridges as permitted by NCDOT or private bridge owner; or (2) by directional boring under the riparian buffer and associated stream, water body, wetland, seep or spring, or (3) in combination with road crossings, culvert-type design within the road right-of-way. Culvert-type crossings shall not cause any restriction of stream channel flows up to the 25-year 24-hour design storm. Sewage treatment crossings ephemeral streams may be trenched in accordance with the applicable laws and rules for sewage treatment disposal systems only for on-site (on parcel) sewage treatment systems.

[10] Stormwater Best Management Practices Manual, NC Division of Water Quality (July, 2007).

6. Electric, petroleum and gas pipeline construction and maintenance activities within the prescribed easement area.

7. Stream and riparian buffer restoration and associated maintenance activities.

8. All trails, provided that Best Management Practices and an approved Trail Management Plan are employed for recreational purposes, such as pedestrian, mountain biking, general recreation and equestrian uses. Land disturbance associated with these activities is limited to outer or landward fifty (50') feet for perennial, thirty (30') for intermittent and twenty (20') feet for ephemeral streams, measured from top of bank.

9. Where permitted by state or federal law for public health and safety purposes, wastewater treatment and disposal components, including surface and subsurface wastewater disposal areas. However, any buffer areas disturbed or impacted by these components must meet the erosion and sedimentation control design practices described in the North Carolina Erosion and Sedimentation Control Planning and Design Manual, June 1, 2006 or most current edition.

10. Maintenance activities associated with the uses listed above are allowed.

(G) <u>Prohibited Structures and Uses in Riparian Buffer.</u>

1. Utilities (i.e., gas, electric, communications, water lines, wells, sanitary sewer, lift stations, etc.) except where stream and buffer crossings are required. Stream and buffer crossings for utilities must be perpendicular to stream flow.

2. Receiving, collection, storage or distribution areas for hazardous waste and hazardous materials.

3. Sanitary landfills and landfills as defined in this Ordinance. Mulching or chipping of inert, organic plant materials is allowed for forestry or maintenance activities.

4. Constructed storm water features.

5. Discharge of concentrated storm water runoff or drainage from culverts, ditches, and other conveyances.

6. Entry by motor powered vehicles, except for the purpose of maintaining existing utility corridors (or new power line or gas corridors) and providing emergency services.

7. Excavation, land clearing, grading or fill material that is not allowed by permit.

8. Stream or buffer maintenance activities unless otherwise allowed by permit.

(H) Buffer Vegetation Requirements for Areas Outside of the Jordan Lake Watershed.

From and after the date of adoption of this ordinance, any of the above riparian buffers shall minimally remain in their existing vegetated condition. Other than for silvicultural or allowable forest management activities using Best Management Practices, clear cutting or forest thinning activities (less than a density of 100 stems per acre that are greater than 5 inches diameter 54" in height) is prohibited. If this activity occurs, the required buffer widths for the associated stream type must be doubled in width (excluding floodplain widths if applicable). If required, this density evaluation shall be completed by a forester, biologist, or environmental scientist and submitted to the County for review. *See footnote 6.*

The riparian buffer shall otherwise remain in its existing forested condition, or if not forested, the following is required:

1. Natural regeneration of forest vegetation, OR

2. Planting of trees, shrubs, or ground cover plants provided that Best Management Practices are used. Plantings shall consist of species native to Chatham County. [11]

3. Invasive species listed by the North Carolina Botanical Garden may be physically removed from the buffer and is an allowed maintenance activity.[12]

(I) Determination of "No Practical Alternative" or "Variances".

No Practical Alternatives Authorization:

1. Persons who wish to undertake uses designated as "allowed" under subsection (F)(5) above, or as "allowed" or "allowable with mitigation" under subsection (J)(3) below, shall submit a request for a "no practical alternatives" determination by the Watershed Review Board or delegated authority. The applicant shall certify that the criteria identified in subsections (a), (b) and (c) below are met. The Watershed Review Board or delegated authority shall review the entire project and make a finding of fact as to whether a "no practical alternatives" determination is met. The Watershed Review Board or delegated authority shall grant an "Authorization Statement" upon a "no practical alternatives" determination. The procedure for issuing an Authorization Statement shall be based upon meeting all of the following criteria:

(a) The basic project purpose cannot be accomplished in a manner that would cause less land disturbance, preserve aquatic life and habitat, and protect water quality;

[11] Weakley, Alan S.; *Flora of the Carolinas, Virginia, and Georgia, and Surrounding Areas*, (UNC Herbarium, NC Botanical Garden, 2007).
[12] *Plants to Avoid in the Southeastern United States* compiled by Allison Schwarz and Johnny Randall, Spring 1999; Controlling Invasive Plants, NC Botanical Gardens (UNC Press, 2002).

(b) The use cannot be reduced in size or density, reconfigured or redesigned to cause less land disturbance, preserve aquatic life and habitat and protect water quality; and

(c) Best Management Practices are used to cause less land disturbance, preserve aquatic life and habitat and protect water quality.

2. The applicant shall also submit at least the following information in support of their assertion of "no practical alternatives":

(a) The name, address and phone number of the applicant;

(b) The nature of the activity to be conducted by the applicant;

(c) The location of the activity, including the jurisdiction;

(d) A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;

(e) An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality; and

(f) Plans for any best management practices proposed to be used to control the impacts associated with the activity.

3. Within 90 days of a submission that addresses subsection (I)(2) for a request to undertake a use designated as "allowed" under subsection (F)(5) above, or within 60 days of a submission that addresses subsection (I)(2) for a request to undertake a use designated as "allowed" or "allowable with mitigation" under subsection (J)(3) below, the Watershed Review Board or delegated authority shall review the entire

project and make a finding of fact as to whether the criteria in subsection (I)(1)have been met. A finding of "no practical alternatives" shall result in issuance of an Authorization Statement. Failure to act within the applicable 90 day or 60 day timeframe as specified above in this subsection (I)(3) shall be construed as a finding of "no practical alternatives" and an Authorization Statement shall be issued to the applicant unless one of the following occurs:

(a) The applicant agrees, in writing, to a longer period;

(b) The Watershed Review Board or delegated authority determines that the applicant has failed to furnish requested information necessary to the Watershed Review Board's or delegated authority's decision;

(c) The final decision is to be made pursuant to a public hearing; or

(d) The applicant refuses access to its records or premises for the purpose of gathering information necessary to the Watershed Review Board's or delegated authority's decision.

4. The Watershed Review Board or delegated authority may attach conditions to the Authorization Statement that support the purpose, spirit and intent of this Ordinance.

5. Any appeals of determinations regarding Authorization Statements pertaining to a request to undertake a use designated as "allowed" under subsection (F)(5) above shall be to Superior Court in as provided in Section 508. Any appeals of determinations regarding Authorization Statements pertaining to a request to undertake a use designated as "allowed" or "allowable with mitigation" under subsection (J)(3) below shall be referred to the Director of the Division of Water Quality, c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in G.S. 150B Articles 3 and 4.

Variances: Persons who believe they are entitled to seek relief from a requirement of Section 304 of this Ordinance may apply for a Variance. The process, procedure and requirements for obtaining a Variance are found in Section 507(B) of this Ordinance.

(J) Jordan Lake Watershed Riparian Buffer Requirements.

This Section 304(J) applies to all landowners and other persons conducting activities in the Jordan Lake Watershed within the jurisdication of Chatham County as provided in Section 102, with the exception of activities conducted under the authority of the State, the United States, multiple jurisdictions, or local units of government, and forest harvesting and agricultural activities. The N.C. Division of Water Quality shall administer the requirements of 15A NCAC 2B. 0267 and .0268 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers and Mitigation of Existing Riparian Buffers, respectively) for these activities. The requirements in § 304(A),(B), (D),(E), (G) and (I) shall also apply to riparian buffers in the Jordan Lake Watershed. In the event of a conflict with any provision in this subparagraph (J), the more restrictive requirement shall apply.

1. *Zones of the Riparian Buffer* – Except in those instances when the total required buffer width for a particular surface water classification as established in § 304(D) is thirty (30) feet landward (such as for ephemeral streams and seeps and springs), the protected riparian buffer in the Jordan Lake watershed shall have two zones as follows:

   a. Zone One shall be the first 30 feet landward measured from the particular surface water body as specified in § 304(D). In those instances when the total required buffer width in § 304(D) is thirty (30) feet, such buffer shall consist solely of Zone One.

b. Zone Two shall begin at the outer edge of Zone One and extend landward the distance required for the combined width of Zone 1 and Zone 2 to equal the riparian buffer width specified in § 304(D) for the particular surface water feature. For example, Zone 2 for intermittent streams shall be twenty (20) feet, and Zone 2 for a perennial stream shall be seventy (70) feet. Both Zone 1 and Zone 2 shall consist of a vegetated area that is undisturbed except for uses provided for in the Table of Uses set forth below in § 304(J)3. of this Ordinance.

2. Diffuse Flow Requirements - Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow prior to its entry into the buffer and reestablishing vegetation as follows:

a. Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters the riparian buffer;

b. Periodic corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies; and

c. No new stormwater conveyances are allowed through the buffers except for those specified in the Table of Uses, § 304(J)3. of this Ordinance, addressing stormwater management ponds, drainage ditches, roadside ditches, and stormwater conveyances.

3. Table of Uses

The following chart sets out potential new uses within the buffer, or outside the buffer with impacts on the buffer, and categorizes them as exempt, allowable, or allowable with mitigation.

All uses not categorized as exempt, allowable, or allowable with mitigation are considered prohibited and may not proceed within the riparian buffer or outside the buffer if the use would impact the buffer, unless a variance is granted pursuant to Section § 507(B) of this Ordinance, Variances. The requirements for each category are given in § 304(J)4 of this Section following the Table of Uses.

Use	Exempt *	Allowable *	Allowable with Mitigation*
Access trails: Pedestrian access trails leading to the surface water, docks, fishing piers, boat ramps and other water dependent activities:			
• Pedestrian access trails that are restricted to the minimum width practicable and do not exceed 4 feet in width of buffer disturbance, and provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the riparian buffer	X		
• Pedestrian access trails that exceed 4 feet in width of buffer disturbance, the installation or use results in removal of trees as defined in this Ordinance or impervious surface is added to the riparian buffer		X	
Airport facilities:			
• Airport facilities that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer		X	
• Airport facilities that impact greater than 150 linear feet or one-third of an acre of riparian buffer			X
• Activities necessary to comply with FAA requirements (e.g. radar uses or landing strips)[1]		X	
Archaeological activities	X		
Bridges		X	
Canoe Access provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the buffer.	X		

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in §304(J)4 of this Ordinance.

Use	Exempt *	Allowable *	Allowable with Mitigation*
Dam maintenance activities:			
• Dam maintenance activities that do not cause additional buffer disturbance beyond the footprint of the existing dam or those covered under the U.S. Army Corps of Engineers Nationwide Permit No. 3	X		
• Dam maintenance activities that do cause additional buffer disturbance beyond the footprint of the existing dam or those not covered under the U.S. Army Corps of Engineers Nationwide Permit No.3		X	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in §304(J)4 of this Ordinance.

Use	Exempt *	Allowable *	Allowable with Mitigation*
Drainage ditches, roadside ditches and stormwater conveyances through riparian buffers:			
• New stormwater flows to existing drainage ditches, roadside ditches, and stormwater conveyances provided flows do not alter or result in the need to alter the conveyance and are managed to minimize the sediment, nutrients and other pollution that convey to waterbodies.	X		
• Realignment of existing roadside drainage ditches retaining the design dimensions, provided that no additional travel lanes are added and the minimum required roadway typical section is used based on traffic and safety considerations.		X	
• New or altered drainage ditches, roadside ditches and stormwater outfalls provided that a stormwater management facility is installed to control nutrients and attenuate flow before the conveyance discharges through the riparian buffer		X	
• New drainage ditches, roadside ditches and stormwater conveyances applicable to linear projects that do not provide a stormwater management facility due to topography constraints provided that other practicable BMPs are employed.			X

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in §304(J)4 of this Ordinance.

Use	Exempt *	Allowable *	Allowable with Mitigation*
Driveway crossings of streams and other surface waters subject to this Rule and consistent with Section 304 (F):			
• Driveway crossings on single family residential lots that disturb equal to or less than 25 linear feet or 2,500 square feet of riparian buffer	X		
• Driveway crossings on single family residential lots that disturb greater than 25 linear feet or 2,500 square feet of riparian buffer		X	
• In a subdivision that cumulatively disturb equal to or less than 150 linear feet or one-third of an acre of riparian buffer		X	
• In a subdivision that cumulatively disturb greater than 150 linear feet or one-third of an acre of riparian buffer			X
Driveway impacts other than crossing of a stream or other surface waters subject to this Ordinance			X
Fences:			
• Fences in Zone Two provided that disturbance is minimized and installation does not result in removal of trees as defined in this Ordinance	X		
• Fences in Zone Two provided that disturbance is minimized and installation results in removal of trees as defined in this Ordinance		X	
Forest harvesting - see 15A NCAC 2B .0267(14) for requirements.[6]			
Fertilizer application: one-time application to establish vegetation	X		

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in §304(J)4 of this Ordinance.

Use	Exempt *	Allowable *	Allowable with Mitigation*
Greenway / hiking trails designed, constructed and maintained to maximize nutrient removal and erosion protection, minimize adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practical.		X	
Historic preservation	X		
Maintenance access on modified natural streams: a grassed travel way on one side of the water body when less impacting alternatives are not practical. The width and specifications of the travel way shall be only that needed for equipment access and operation. The travel way shall be located to maximize stream shading.		X	
Mining activities: • Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of §304(J)(1) and (2) of this Ordinance are established adjacent to the relocated channels • Mining activities that are not covered by the Mining Act OR where new riparian buffers that meet the requirements of §304(J)(1) and (2) of this Ordinance are not established adjacent to the relocated channels • Wastewater or mining dewatering wells with approved NPDES permit	X	X	X
Playground equipment: • Playground equipment on single family lots provided that installation and use does not result in removal of vegetation • Playground equipment installed on lands other than single-family lots or that requires removal of vegetation	X	X	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in §304(J)4 of this Ordinance.

Use	Exempt *	Allowable *	Allowable with Mitigation*
Protection of existing structures, facilities and stream banks when this requires additional disturbance of the riparian buffer or the stream channel		X	
Railroad impacts other than crossings of streams and other surface waters subject to this Rule.			X
Railroad crossings of streams and other surface waters subject to this Rule: • Railroad crossings that impact equal to or less than 40 linear feet of riparian buffer • Railroad crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer • Railroad crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer	X	X	X

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in §304(J)4 of this Ordinance.

Use	Exempt *	Allowable *	Allowable with Mitigation*
Removal of previous fill or debris provided that diffuse flow is maintained and vegetation is restored	X		
Road impacts other than crossings of streams and other surface waters subject to this Ordinance			X
Road crossings of streams and other surface waters subject to this Ordinance:			
• Road crossings that impact equal to or less than 40 linear feet of riparian buffer	X		
• Road crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer		X	
• Road crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer			X

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in §304(J)4 of this Ordinance.

Use	Exempt *	Allowable *	Allowable with Mitigation*
Road relocation: Relocation of existing private access roads associated with public road projects where necessary for public safety:			
• Less than or equal to 2,500 square feet of buffer impact		X	
• Greater than 2,500 square feet of buffer impact			X
Scientific studies and stream gauging	X		
Streambank or shoreline stabilization		X	
Temporary roads, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation: At the end of five years the restored buffer shall comply with the restoration criteria in §305(G) of this Ordinance:			
• Less than or equal to 2,500 square feet of buffer disturbance		X	
• Greater than 2,500 square feet of buffer disturbance		X	
• Associated with culvert installation or bridge construction or replacement.		X	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in §304(J)4 of this Ordinance.

Use	Exempt *	Allowable *	Allowable with Mitigation*
In-stream temporary erosion and sediment control measures: • In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Section 401 and 404 of the Federal Water Pollution Control Act. • In-stream temporary erosion and sediment control measures for work within a stream channel.	X	X	
Utility, electric, aerial, perpendicular crossings of streams and other surface waters subject to this Rule[2,3,5]: • Disturb equal to or less than 150 linear feet of riparian buffer • Disturb greater than 150 linear feet of riparian buffer	X	X	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in §304(J)4 of this Ordinance.

Use	Exempt *	Allowable *	Allowable with Mitigation*
Utility, electric, aerial, other than perpendicular crossings[5]:			
• Impacts in Zone Two		X	
• Impacts in Zone One[2,3]			X
Utility, electric, underground, perpendicular crossings[3,4,5]:			
• Disturb less than or equal to 40 linear feet of riparian buffer		X	
• Disturb greater than 40 linear feet of riparian buffer		X	
Utility, electric, underground, other than perpendicular crossings[4]:			
• Impacts in Zone Two		X	
• Impacts in Zone One[1]		X	
Utility, non-electric, perpendicular crossings of streams and other surface waters subject to this Ordinance[3,5]:			
• Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width		X	
• Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width			
• Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width		X	
• Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width			X
• Disturb greater than 150 linear feet of riparian buffer			X

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in §304(J)4 of this Ordinance.

Use	Exempt *	Allowable *	Allowable with Mitigation*
Utility, non-electric, other than perpendicular crossings[4,5]:			
• Impacts in Zone Two		X	
• Impacts in Zone One[1]			X
Vegetation management:			
• Emergency fire control measures provided that topography is restored	X		
• Planting vegetation species native to Chatham County to enhance the riparian buffer	X		
• Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised	X		
• Removal of individual trees that are in danger of causing damage to dwellings, other structures or human life, or are imminently endangering stability of the streambank.	X		
• Removal of individual trees which are dead, diseased or damaged.	X		
• Removal of poison ivy	X		
• Removal of invasive exotic vegetation as defined: (i) *in Smith, Cherri L. 1998, Exotic Plant Guidelines, Dept. of Environment and Natural Resources, Division of Parks and Recreation, Raleigh, NC, Guideline #30; (ii) in Plants to Avoid in the Southeastern United States compiled by Allison Schwarz and Johnny Randall, Spring 1999; or (iii) by the NC Native Plant Society, website: http://www.ncwildflower.org/invasives/invasives.htm*.	X		
• Revegetation in Zone Two.	X		
Vehicular access roads leading to water-dependent structures as		X	

defined in 15A NCAC 02B .0202, provided they do not cross the surface water and have minimum practicable width not exceeding ten feet.			
• Water dependent structures as defined in 15A NCAC 02B .0202 where installation and use result in disturbance to riparian buffers.		X	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in §304(J)4 of this Ordinance.

Use	Exempt *	Allowable *	Allowable with Mitigation*
Wetland, stream and buffer restoration that results in impacts to the riparian buffers: • Wetland, stream and buffer restoration that requires Division of Water Quality approval for the use of a 401 Water Quality Certification	X		
• Wetland, stream and buffer restoration that does not require Division of Water Quality approval for the use of a 401 Water Quality Certification		X	
Wildlife passage structures		X	

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in §304(J)4 of this Ordinance.

[1] Provided that:
- No heavy equipment is used in Zone One.
- Vegetation in undisturbed portions of the buffer is not compromised.
- Felled trees are removed by chain.
- No permanent felling of trees occurs in protected buffers or streams
- Stumps are removed only by grinding.
- At the completion of the project the disturbed area is stabilized with native vegetation.

[2] Provided that, in Zone 1, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternatives evaluation by the County.
- A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut.
- Rip rap shall not be used unless it is necessary to stabilize a tower.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

[3] Provided that poles or towers shall not be installed within 10 feet of a water body unless the County completes a no practical alternatives evaluation.

[4] Provided that, in Zone 1, all of the following BMPs for underground utility lines are used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternatives evaluation by the County.
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench, where trees are cut.
- Underground cables shall be installed by vibratory plow or trenching.
- The trench shall be backfilled with the excavated soil material immediately following cable installation.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

[5] Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.

[6] Requirements are administered by the Division of Water Quality, but the Watershed Administrator shall be notified in advance of forest harvesting activity in buffer areas.

4. Requirements for Categories of Uses

Uses designated in the Table of Uses as exempt, allowable, and allowable with mitigation within a riparian buffer shall have the following requirements:

(a) Exempt.

Uses designated as exempt are permissible without authorization by the County provided that they adhere to the limitations of the activity as defined in the Table of Uses in §304(J)3. In addition, exempt uses shall be designed, constructed and maintained to minimize soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities.

(b) Allowable.

Uses designated as allowable may proceed provided that there are no practical alternatives to the requested

use pursuant to §304(I) of this Ordinance. This includes construction, monitoring, and maintenance activities. These uses require written authorization from the Watershed Review Board or delegated authority.

(c) Allowable with Mitigation.

Uses designated as allowable with mitigation may proceed provided that there are no practical alternatives to the requested use pursuant to §304(I) of this Ordinance and an appropriate mitigation strategy has been approved pursuant to §305. These uses require written authorization from the Watershed Review Board or delegated authority. Mitigation will be required only for impacts to Zone One and to the first landward twenty (20) feet of Zone Two. Therefore, impacts to the outer fifty (50) feet of Zone 2 (i.e., in those instances when a one-hundred (100) foot buffer is required) will not be considered for purposes of calculating required mitigation pursuant to §305 of this Ordinance.

5. Variances. Persons who wish to undertake prohibited uses may pursue a variance in accordance with the requirements of § 507(B) of this Ordinance, except that:

(a) An appeal of a minor variance decision regarding Jordan Lake watershed buffer requirements shall be made in writing to the Director of the Division of Water Quality. The Director's decision is subject to review as provided in G.S. 150B Articles 3 and 4; and

(b) With respect to granting a major variance from the Jordan Lake watershed buffer requirements, once the Watershed Review Board sends the preliminary record to the Environmental Management Commission in accordance with §

507(B)(6) the Environmental Management Commission's decision process for such buffer variance shall control if different than specified in § 507(B)(6).

6. Exemption When Existing Uses Are Present and Ongoing.

This Section 304(J) shall not apply to uses that are existing and ongoing; however, this section shall apply at the time an existing, ongoing use is changed to another use. Change of use shall mean the initiation of any activity that does not meet either of the following criteria for existing, ongoing activity:

(a) It was present within the riparian buffer as of the effective date of this Section 304(J) and has continued to exist since that time. Existing uses shall include agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site sanitary sewage systems, any of which involve specific, periodic management of vegetation or displacement of vegetation by structures or regular activity. Only the portion of the riparian buffer occupied by the footprint of the existing use is exempt from Section 304(J). Change of ownership is not a change of use. Activities necessary to maintain uses are allowed provided that the site remains similarly vegetated, no impervious surface is added within the required buffer area where it did not previously exist as of the effective date of this section, and existing diffuse flow is maintained. Revegetating Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised, the ground is stabilized and existing diffuse flow is maintained.

(b) Projects or proposed development that are determined by Chatham County to meet at least one of the following criteria:

(i) Project requires a 401 Certification/404 Permit and these were issued prior to the effective date of Section 304(J);

(ii) Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, have begun construction or are under contract to begin construction and had received all required state permits and certifications prior to the effective date of Section 304(J);

(iii) Projects that are being reviewed through Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor and that have reached agreement with DENR on avoidance and minimization by the effective date of Sec. Section 304(J); or

(iv) Projects that are not required to be reviewed by the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor if a Finding of No Significant Impact has been issued for the project and the project has the written approval of the Town prior to the effective date of Section 304(J).

Section 305. Mitigation

(A) This item shall apply to persons who wish to impact a riparian buffer in the Jordan watershed when on of the following applies:

1. A person has received an Authorization Statement pursuant to § 304(I) of this Ordinance for a proposed use that is designated as "allowable with mitigation;" or

2. A person has received a variance pursuant to § 304(J)(5) and § 507(B) of this Ordinance and is required to perform mitigation as a condition of a variance approval.

(B) Issuance of the Mitigation Approval

The Watershed Review Board or delegated authority shall issue a mitigation approval upon determining that a proposal meets the requirements set out in this Ordinance. The approval shall identify at a minimum the option chosen for meeting the mitigation requirement, the required area of mitigation, and either the mitigation location or the offset payment amount as applicable.

(C) Options for Meeting the Mitigation Requirement

The mitigation requirement may be met through one of the following options:

1. Payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 2B .0269 (Jordan Water Supply Nutrient Strategy: Riparian Buffer Mitigation Fees to the NC Ecosystem Enhancement Program) contingent upon acceptance of payments by the NC Ecosystem Enhancement Program, or to a private mitigation bank that complies with banking requirements of the US Army Corps of Engineers, currently set out at http://www.saw.usace.army.mil/WETLANDS/Mitigation/mitbanks. html or from the US Army Corps of Engineers, P.O. Box 1890,

Wilmington, NC, 28402-1890, and the applicable trading criteria in Rule 15A NCAC 2B .0273;

2. Donation of real property or of an interest in real property pursuant to § 305(F) of this Ordinance; or

3. Restoration or enhancement of a non-forested riparian buffer pursuant to the requirements of § 305(G) of this Ordinance.

(D) The Area of Mitigation

Chatham County shall determine the required area of mitigation, which shall apply to all mitigation options identified in § 305(C) of this Ordinance and as further specified in the requirements for each option set out in this Section. The required area of mitigation shall be determined based on impacts to Zone One and impacts to the first landward twenty (20) feet of Zone Two, according to the following:

1. The impacts in square feet to each zone of the riparian buffer shall be determined by Chatham County by adding the following with respect to impacts within Zone One and impacts within the first landward twenty (20) feet of Zone Two:

   a. The area of the footprint of the use causing the impact to the riparian buffer;

   b. The area of the boundary of any clearing and grading activities within the riparian buffer necessary to accommodate the use; and

   c. The area of any ongoing maintenance corridors within the riparian buffer associated with the use.

2. The required area of mitigation shall be determined by applying the following multipliers to the impacts determined in §

305(D)(1) of this Ordinance to each zone of the riparian buffer:

a. Impacts to Zone One of the riparian buffer shall be multiplied by three;

b. Impacts to Zone Two of the riparian buffer shall be multiplied by one and one-half and

c. Impacts to wetlands within Zones One and Two of the riparian buffer that are subject to mitigation under 15A NCAC 2H .0506 shall comply with the mitigation ratios in 15A NCAC 2H .0506.

(E) The Location of Mitigation

For any option chosen, the mitigation effort shall be located within the same subwatershed of the Jordan watershed, as defined in 15A NCAC 2B.0262, and the same distance from the Jordan Reservoir as the proposed impact, or closer to the Reservoir than the impact, and as close to the location of the impact as feasible. Alternatively, the applicant may propose mitigation anywhere within the same subwatershed of the Jordan watershed, as defined in 15A NCAC 2B.0262, provided that the mitigation proposal accounts for differences in delivery of nutrients to the affected arm of Jordan Reservoir resulting from differences between the locations of the buffer impact and mitigation. Additional location requirements for the property donation option are enumerated in § 305(F)(3)(a) of this Ordinance.

(F) Donation of Property

Persons who choose to satisfy their mitigation determination by donating real property or an interest in real property shall meet the following requirements:

1. The donation of real property interests may be used to either partially or fully satisfy the payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 2B .0269. The value of

the property interest shall be determined by an appraisal performed in accordance with § 305(F)(4)(d) of this Ordinance. The donation shall satisfy the mitigation determination if the appraised value of the donated property interest is equal to or greater than the required fee. If the appraised value of the donated property interest is less than the required fee calculated pursuant to 15A NCAC 2B .0269, the applicant shall pay the remaining balance due.

2. The donation of conservation easements to satisfy compensatory mitigation requirements shall be accepted only if the conservation easement is granted in perpetuity.

3. Donation of real property interests to satisfy the mitigation determination shall be accepted only if such property meets all of the following requirements:

   a. In addition to the location requirements of § 305(E) of this Ordinance, the property shall be located within an area that is identified as a priority for restoration in, or is otherwise consistent with the goals of, the Basinwide Wetlands and Riparian Restoration Plan for the Cape Fear River Basin developed by NC Division of Water Quality pursuant to G.S. 143-214.10;

   b. The property shall contain riparian buffers not currently protected by the State's riparian buffer protection program that are in need of restoration as defined in § 305(G)(4)of this Ordinance;

   c. The restorable riparian buffer on the property shall have a minimum length of 1000 linear feet along a surface water and a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;

d. The size of the restorable riparian buffer on the property to be donated shall equal or exceed the area of mitigation responsibility determined pursuant to § 305(D) of this Ordinance;

e. Restoration shall not require removal of man-made structures or infrastructure;

f. The property shall be suitable to be successfully restored, based on existing hydrology, soils, and vegetation;

g. The estimated cost of restoring and maintaining the property shall not exceed the value of the property minus site identification and transaction costs;

h. The property shall not contain any building, structure, object, site, or district that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470 as amended;

i. The property shall not contain any hazardous substance or solid waste;

j. The property shall not contain structures or materials that present health or safety problems to the general public. If wells, septic, water or sewer connections exist, they shall be filled, remediated or closed at owner's expense in accordance with state and local health and safety regulations;

k. The property and adjacent properties shall not have prior, current, and known future land use that would inhibit the function of the restoration effort; and

l. The property shall not have any encumbrances or conditions on the transfer of the property interests.

4. At the expense of the applicant or donor, the following information shall be submitted to Chatham County with any proposal for donations or dedications of interest in real property:

a. Documentation that the property meets the requirements laid out in § 305(F)(3) of this Ordinance;

b. US Geological Survey 1:24,000 (7.5 minute) scale topographic map, county tax map, USDA Natural Resource Conservation Service County Soil Survey Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation types, presence of existing structures and easements;

c. A current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the State Board of Registration for Professional Engineers and Land Surveyors in "Standards of Practice for Land Surveying in North Carolina." Copies may be obtained from the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609;

d. A current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the "Uniform Standards of Professional North Carolina Appraisal Practice." Copies may be obtained from the Appraisal

Foundation, Publications Department, P.O. Box 96734, Washington, D.C. 20090-6734; and

e. A title certificate.

(G) Riparian Buffer Restoration or Enhancement

Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:

1. The applicant may restore or enhance a non-forested riparian buffer if either of the following applies:

   a. The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to § 305(D) of this Ordinance; or

   b. The area of riparian buffer enhancement is three times larger than the required area of mitigation determined pursuant to § 305(D) of this Ordinance;

2. The location of the riparian buffer restoration or enhancement shall comply with the requirements in § 305(E) of this Ordinance;

3. The riparian buffer restoration or enhancement site shall have a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;

4. Enhancement and restoration shall both have the objective of establishing a forested riparian buffer according to the requirements of this § 305(G). Enhancement shall be distinguished from restoration based on existing buffer conditions. Where existing trees are sparse, that is greater than or equal to 100 trees per acre but less than 200 trees per acre, a buffer may be enhanced. Where existing woody vegetation is

absent, that is less than 100 trees per acre, a buffer may be restored;

5. The applicant shall first receive an Authorization Statement for the proposed use according to the requirements of § 304(I)(1) of this Ordinance. After receiving this determination, the applicant shall submit a restoration or enhancement plan for approval by Chatham County. The restoration or enhancement plan shall contain the following:

   a. A map of the proposed restoration or enhancement site;

   b. A vegetation plan. The vegetation plan shall include a minimum of at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity;

   c. A grading plan. The site shall be graded in a manner to ensure diffuse flow through the riparian buffer;

   d. A fertilization plan; and

   e. A schedule for implementation;

6. Within one year after Chatham County has approved the restoration or enhancement plan, the applicant shall present proof to the County that the riparian buffer has been restored or enhanced. If proof is not presented within this timeframe, then the person shall be in violation of both the State's and Chatham County's riparian buffer protection program;

7. The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal functions; and

8. The applicant shall submit annual reports for a period of five years after the restoration or enhancement showing that the

trees planted have survived and that diffuse flow through the riparian buffer has been maintained. The applicant shall replace trees that do not survive and restore diffuse flow if needed during that five-year period.

Section 306. 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 Watershed Review Board.

Section 307. 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) Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in Section 307.

(D) 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 308. 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.

(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 Chatham 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 the Watershed Administrator is authorized to issue a Watershed Protection Permit.

(2) Notwithstanding the foregoing, whenever two or more contiguous 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, as established by the N.C. Environmental Management Commission, such lots shall be combined to create one or more lots that meet the standards of this ordinance, or, if this is impossible, reduce to the extent possible the nonconformity of the lots.

(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 for the watershed area in which they are located as established by the N.C. Environmental Management Commission. Such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.

(C) 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.

(D) Reconstruction of Buildings or Built-upon Areas. There are no restrictions on single family residential development. Any other existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or reconstructed provided:

(1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.

(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 309. Watershed Protection Permit.

(A) 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 Attachment C) and 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 310. Building Permit Required.

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

Section 311. 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. The Watershed Protection Occupancy Permit may coincide with the final Building Inspections Permit.

(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.

Section 312. Compact Communities.

For approved compact communities, the provisions set forth in the Chatham County Compact Communities Ordinance with regard to maximum density, built-upon areas, and stream buffers shall supplement the provisions hereof and in the event of a conflict, the most restrictive provision or the one which imposes the highest standard or requirement shall prevail, except as otherwise specified.

ARTICLE 400: PUBLIC HEALTH REGULATIONS

Section 401. 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 402. Abatement.

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

(B) The Watershed Administrator shall report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations.

(C) Where the Watershed Review Board finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

ARTICLE 500: ADMINISTRATION, ENFORCEMENT AND APPEALS

Section 501. Watershed Administrator and Duties thereof.

The county 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 unless another person is appointed by the county.

(C) The Watershed Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Supervisor of the Water Supply Watershed Protection Program in the NC Division of Water Quality. (#10)

(D) The Watershed Administrator shall keep records of the jurisdiction's utilization of the provision that a maximum of five percent (5%) of the WS-III-BW watershed may be developed with non-residential development to a maximum of seventy percent (70%) built-upon surface area. The Watershed Administrator shall keep records of other special non-residential intensity allocations (SNIA) as provided in this ordinance. 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.

(E) 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.

(F) The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted to the Supervisor of the Water Supply Watershed Protection Program in the NC 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. (#10)

Section 502. Appeal from the Watershed Administrator.

Any order, requirement, 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 the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.

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 503. Changes and Amendments to the Watershed Protection Ordinance.

(A) The county Governing Board may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.

(B) No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. If no recommendation has been received from the Watershed Review Board within forty-five (45) days after submission of the proposal to the Chairman of the Watershed Review Board, the county Governing Board may proceed as though a favorable report had been received.

(C) Under no circumstances shall the County Board adopt such amendments, supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the N.C. Division of Environmental Management and with the N.C. Division of Environmental Health. (#10)

Section 504. Public Notice and Hearing Required.

Before adopting or amending this ordinance, the county Governing Board 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 505. Establishment of Watershed Review Board.

(A) There shall be and hereby is created the Watershed Review Board consisting of a minimum of five (5) members appointed by the county Governing Board. The Chatham County Environmental Review Board is hereby appointed as the Watershed Review Board.

Section 506. Rules of Conduct for Members.

Members of the Board may be removed by the county Governing Board for cause, including violation of the rules stated below:

(A) Faithful attendance at meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite to continuing membership on the Board.

(B) No Board member shall take part in the hearing, consideration, or determination of any case in which he is personally or financially interested. A Board member shall have a "financial interest" in a case when a decision in the case will: 1) cause him or his spouse to experience a direct financial benefit or loss, or 2) will cause a business in which he or his spouse owns a 10 per cent or greater interest, or is involved in a decision-making role, to experience a direct financial benefit or loss. A Board member shall have a "personal interest" in a case when it involves a member of his immediate family (i.e., parent, spouse, or child).

(C) No Board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from the Watershed Administrator or any other member of the Board, its secretary or clerk prior to the hearing.

(D) Members of the Board shall not express individual opinions on the proper judgment of any case prior to its determination on that case.

(E) Members of the Board shall give notice to the chairman at least forty-eight (48) hours prior to the hearing of any potential conflict of interest which he has in a particular case before the Board.

(F) No Board member shall vote on any matter that decides an application or appeal unless he had attended the public hearing on that application or appeal.

Section 507. 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 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 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 and general vicinity map.

(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. 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 the applicant complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, the 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 the 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 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 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 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 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.

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.

(c) Subdivision approval. See Article 200.

(D) Public Health. See Article 400.

(E) Approval of all development greater than the low density option. (For Future Inclusion)

Section 508. Appeals from the Watershed Review Board.

Except as otherwise provided in Section 304(I)(5) and Section 304(J)(5) of this Ordinance, an appeal of a Watershed Review Board decision must be filed with the Superior Court within 30 days from the date of the decision, and such decision of the Board is subject to review by the Superior Court by proceedings in the manner of certiorari.

ATTACHMENT A:__ Permitted Uses

Accessory uses and structures clearly incidental to a permitted use
Accessory dwelling unit i.e. guest house, pool house, garage apartment and in-house apartment
Animal husbandry, specialized with a minimum lot area of 15 acres
Avocational farming
Bed and Breakfast Inns with no more than six rooms for rent with a minimum lot area of three acres
Boarding stables with a minimum lot area of three acres
Breeding stables with a minimum lot area of three acres
Boat, Camper, and Recreational Vehicle Storage
Breeding kennels with a minimum lot area of three acres
Churches and other places of worship provided such are located on a lot of not less than three acres
Day Care Centers in the principal residence to accommodate not more than 15 children at any one time
Day Care Center for more than 15 children with a minimum lot area of three acres
Dwellings, single-family, manufactured
Dwellings, single-family site built and modular
Family Care Home limited to not more than six persons
Fire Stations and emergency medical facilities with a minimum lot area of three acres
Grounds and facilities for hunting and fishing clubs with a minimum lot area of 20 acres
Grounds and facilities for non-profit clubs with a minimum lot area of three acres
Guest house, pool house, garage apartment
High-tech precision computerized machine shop [#5]
Home occupations
Horticulture, specialized with a minimum lot area of three acres
Kindergartens and nurseries with a minimum lot area of three acres
Mini-Warehouse Storage Facilities:
a) Mini-warehouses shall not be allowed to keep on the premises explosives, inflammable liquid, hazardous/toxic waste and other pollutants, contraband, live animal, or other goods prohibited by law.
b) Stormwater management facility to retain the first ½ inch of runoff from the impervious surface area
Owner-occupied bed and breakfast homes with no more than two (2) rooms/units for rent to stays no longer than seven (7) consecutive days and located on legal, non-conforming and

conforming lots of record, on at least one and one half (1.5) acres, which may have standards set backs as set in the district in which they are located. (#11)

Planned residential developments

Public and private recreation camps and grounds

Public parks and recreation areas including marinas and concessions with a minimum lot area of three acres

Public utility facilities

Schools, public and private with a minimum lot area of three acres

Street and railway rights-of-way

Public utility transmission lines

Temporary construction trailers or structure

Veterinary clinics and hospitals on tracts of land of at least ten (10) acres and where the use of x-ray equipment is limited to that of “digital” systems. (#11)

ATTACHMENT_ B: Permitted Uses

ABC stores

Amusement enterprises such as pool, bowling, roller rink when housed entirely within a permanent structure

Antique and furniture shops

Appliance sales and service

Art supply retail sales

Automobile repair garages

Automobile sales and service

Automobile service stations including tune-ups, minor repairs, tire service, washing facilities, both manual and automatic, and similar services. Fuel, oil and similar pumps and appliances may be located in the minimum required front and side yards provided that none shall be located nearer than 15 feet to any street line and may be covered by an attached or free standing unenclosed canopy provided such canopy does not extend nearer than five feet to any property line and does not cover greater than 30% of the required yard area

Bait and tackle shops

Bake shops and similar food preparation intended primarily for retail sales on the premises for consumption either on or off premises

Banks, savings and loans, finance companies, credit agencies and similar financial institutions

Bicycle sales and repair

Boat, trailer and other utility vehicle sales and service

Book, stationery and office supply stores

Bus passenger stations

Cabinet shops
Catering establishments
Churches and other places of worship
Clothing shops
Dairy bars and ice cream shops intended primarily for retail sale on the premises for consumption either on or off premises
Drug stores
Eating and drinking establishments
Fabric shops
Feed, seed, fertilizer retail sales
Fire stations and emergency medical service facilities
Florist shops
Food stores, retail
Funeral homes, embalming including crematoria
Fur storage
Furrier, retail sales
Gift shops
Hardware, appliances, electrical and similar items retail sales
Heating, plumbing, electrical, cabinet and similar shops
Horticulture, specialized
Hospital, health and welfare centers, nursing homes
Hotels, motels and inns
Incidental storage of goods intended for retail sales on the premises
Interior design shops
Jewelry and watch sales and service, goldsmith
Laboratory - dental, medical, optical
Landscape design business
Landscaping and grading business
Laundries, laundromats and dry cleaning establishments
Lawn and garden shops
Leather goods sales and service including manufacture for retail sales on premises
Libraries, Museums and Art Galleries
Lock and gunsmith
Lodges, fraternal and social organization clubs
Medical clinics - inpatient and outpatient care
Mobile home sales and service
Motorcycle sales and service
Music stores
Newsstands
Office - business, professional and governmental
Office - engineering supply and similar sales and services including blueprinting, photostating and similar services
Opticians and optical sales and service
Paint retail shops

Pawnshops and secondhand stores
Pet shops
Photographic studios, camera shops
Physical culture establishments
Post offices
Printing and publishing
Public and private schools, training and conference centers
Radio and television stations and their towers when the towers are located on the same site with the station
Repair shops for jewelry, shoes, radios, televisions and other small office or household appliances
Retail stores and personal service shops similar to those listed dealing in direct consumer and personal services
Secretarial and job service offices
Sporting goods sales
Swimming pool and related items sales and service
Temporary construction trailers or structures which meet the district setbacks
Upholstery, wallpaper and decorator shops
Uses and structures customarily accessory to any permitted use
Veterinary clinics and hospitals with dog runs or equivalent facilities