# Alamance County

**A-1**

BOARD OF COMMISSIONERS
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**LINDA H. MASSEY**
Chair

November 4, 2010

Jason Robinson, P.E.
Nonpoint Source Management Program
NCDENR: Division of Water Quality - Planning Section
1617 Mail Service Center
Raleigh, NC 27699-1617

Re: Jordan Lake Rules/Riparian Buffer Requirements

Dear Mr. Robinson

At the October 4, 2010 meeting of the Alamance County Board of Commissioners, a motion was made, seconded, and approved unanimously to recommend proposing the following changes to the Alamance County Watershed Protection Ordinance to address the riparian buffer requirements set forth in the Jordan Lake Rules:

**Section 102.Exceptions to Applicability**

- Add subsection "E" to state: *"Exceptions listed in this section shall not apply to the requirement of riparian buffers as set forth in Section 204 of this Ordinance."*

**Section 204. Stream Buffer**

- Change the title of the section to the following: *"Section 204. Stream and Pond Buffer."*
- Delete all existing text in Section 204 and replace it with the following text: *"The riparian buffer protection rules of 15A NCAC 02B .0267 and .0268 and Section 6.(g) of Session Law 2009-216, found in Section 7.(b) of Session Law 2009-484 (Jordan Water Supply Nutrient Strategy) apply to all lands regulated by this Ordinance."*

Attached to this letter is a copy of the existing Watershed Protection Ordinance so that the appropriate/affected Sections may be referenced during your review. Please accept this as our formal response and proposal for addressing the necessary riparian buffer requirements.

Should you have any questions, please feel free to contact Jason Martin, Planning Manager, at 336-570-4052 or via email at jason.martin@alamance-nc.com.

Sincerely,

Linda Massey

Linda Massey
Chair, Alamance County Board of Commissioners

cc: Craig Honeycutt, County Manager
Jason S. Martin, Planning Manager
Clyde Albright, County Attorney
Sue Homewood, Division of Water Quality

# ALAMANCE COUNTY WATERSHED PROTECTION ZONING ORDINANCE

Originally adopted by
THE BOARD OF COUNTY COMMISSIONERS
May 4, 1987

**As Amended by**
**THE BOARD OF COUNTY COMMISSIONERS**
**November 17, 1997**

**And**

**April 19, 2004**

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# WATERSHED PROTECTION ZONING ORDINANCE

WHEREAS, it is the intention of the Alamance County Board of Commissioners, upon recommendation by the Alamance County Planning Board, to protect the watershed areas of Alamance County. Primarily these watershed areas include the water supply lakes for the cities of Burlington, Graham, Mebane and for the Orange Water and Sewer Authority. This Ordinance is promulgated in order to provide for a safe and potable water supply for present and future generations of Alamance County citizens and to preserve rural community character; and

WHEREAS, the County of Alamance has the authority to regulate the uses of properties in its territorial jurisdiction by virtue of N.C.G.S. 153A-340(ff) and Article 21 of Chapter 143 of the General Statutes of North Carolina.

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF ALAMANCE DOTH ORDAIN:

## ARTICLE 100: AUTHORITY

**Section 101. Jurisdiction.**

The provisions of this Ordinance shall apply within the areas designated, defined and established on the maps entitled, "Zoning Map of Alamance County, North Carolina" ("the Zoning Map"), which is adopted simultaneously herewith. The Zoning Maps 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 Board of County Commissioners.

**Section 102. 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 this Ordinance specifically replaces.

B. It is not intended that this Ordinance interfere with any easement, covenants or other agreements between parties. However, if the provisions of this Ordinance impose greater restrictions or higher standards for the use of a building or land, then the provisions of this Ordinance shall control.

C. Existing development, as defined in this Ordinance, is regulated under the provisions as stated in **Section 211**.

D. A nonconforming lot of record shall not be subject to the development restrictions of this Ordinance if it is developed for single-family residential purposes, except as specified in **Section 203.** Any lot or parcel created as part of any other type of subdivision that is exempt

from a local subdivision ordinance shall be subject to the land use requirements (including impervious surface requirements) of these rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.

**Section 103. Reenactment of Existing Watershed Ordinance.**

This Ordinance in part carries forward by re-enactment, some of the **Alamance County Watershed Protection Ordinance** adopted by the Board of Commissioners on May 4, 1987, as amended 11-19-90, 9-20-93, 12-18-95 and 1-21-97, and it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All provisions of the Watershed Protection Zoning Ordinance which are not re-enacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any Ordinance provisions heretofore in effect, which are now pending in any court of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this Ordinance, but shall be prosecuted to their full finality the same as if this Ordinance had not been adopted; and any and all violations of the existing Watershed Protection Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this Ordinance shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

**Section 104. Criminal Penalties.**

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

**Section 105. Remedies.**

A. If any subdivision, development and/or land use is found to be in violation of this Ordinance, the County Manager may initiate an action in the name of Alamance County, in addition to all other remedies available either at law or in equity, institute an action or proceedings to restrain or correct the violation; an action to prevent occupancy of the building, structure, or land; or an action to prevent any illegal act, conduct, business, or use in or about the premises. No activity, situation, structure or land use shall be allowed within the zoned area 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. All remedies as outlined in this Section are available to address public health violations as specified above.

B. In addition to the remedies already listed, the County Manager may impose and institute an action in the name of Alamance County to collect a civil penalty. The assessable penalty will be instituted for violations of this Ordinance as follows:

| **Class of Violation** | **Degree of Violation** | **Penalty Amount** |
|---|---|---|
| Class I | Severe | $1,000 per day |
| Class II | Moderate | $ 500 per day |
| Class III | Minor | $ 100 per day |

C. Civil penalties may be assessed against any person for violations as outlined in this Section. Standards in determining the amount of assessment of a violation shall be as follows:

1. Violation of effluent standard(s) or water quality standard(s) or,

2. effect on receiving waters, public health, and fish or wildlife.

D. If the Zoning Administrator in the Administrative Services or Inspections Departments find that any of the provisions of this Ordinance are being violated, the Administrator shall notify in writing the person responsible for such violations, indicating the nature of the violations, 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 Zoning Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

**Section 106. Severability.**

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

## ARTICLE 200: DEVELOPMENT REGULATIONS

**Section 201. Establishment of Zoning Districts.**

The purpose of this Section is to list and describe the zones herein adopted. For purposes of this Ordinance, districts in Alamance County are hereby divided into the following zones, as appropriate:

- **Watershed Critical Area (WCA)**

- **Balance of Watershed (BOW)**

- **Rural Community District (RCD)**

Within the three zones set forth the following are identified:

**WATERSHED CRITICAL AREA (WCA):**

- Back Creek Watershed
- Stoney Creek Watershed
- Big Alamance Creek Watershed

**BALANCE OF WATERSHED (BOW):**

- Back Creek Watershed
- Stoney Creek Watershed
- Cane Creek Watershed
- Rocky River Watershed
- Haw River Watershed

**Rural Community District (RCD):**

- Sandy Cross Rural Community

**Section 202. Zones Described.**

A. **Watershed Critical Area (WCA).** The WCA is the area extending either one mile from the normal pool elevation of a water supply reservoir 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). In order to maintain a predominantly undeveloped land use intensity pattern in the WCA, single-family residential, multi-family residential and non-residential development shall be allowed at a maximum of one dwelling unit or use per two acres (1 d.u. or use/2 ac.). Built-upon area for multi-family residential and non-residential development shall not exceed six percent (6%) of lot area except for expansion of existing development (See **Section 211. A. -** Expansion of Existing Development.) All new lots to be used for multi-family structures, community business or industrial purposes shall be required to obtain a zoning permit from the County's Zoning Administrator before any building permits may be issued.

1. **Allowed Uses:**

- Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990

and the rules and regulations of the Soil and Water Conservation Commission.

- Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).
- Single-family residential development.
- Multi-family residential development.
- Non-residential development: Institutional, educational, religious, commercial, office or recreational.

2. **Prohibited Uses:**

- Cluster development
- Sites for land application of residuals or petroleum contaminated soils.
- Landfills, incinerators, and waste processors.
- Commercial use which sells, stores, or distributes motor fuel or other hazardous materials.
- Solid waste management facilities.
- Airports.
- Industry.
- Metal salvage facilities including junkyards.
- Manufacturing, use or storage of any Hazardous Production Material (HPM) or Highly Toxic Material (HTM) or determined by the Alamance County Board of Commissioners to be injurious to the health, safety or welfare of the County's residents due to the explosive, flammable or toxic characteristics of the materials.
- Package treatment plants, and community sewage facilities, except for subsurface septic tanks. (These facilities are allowed only if the Health Department determines that a public health problem can be alleviated by constructing such facilities.) Note: This provision does not prohibit the extension of municipal sewer lines (public) into the watershed critical area.

- Underground fuel or chemical storage tanks (except for L.P. Gas Storage).

3. **Density and Built-upon Limits:**

a. **Single-Family Residential.** Development shall not exceed one dwelling unit per two (2) acres on a project by project basis (1 d.u./2 ac.). No residential lot shall be less than two (2) acres. Nonconforming lots of record shall conform to **Section 203.**

b. **Multi-Family Residential and Non-Residential.** All multi-family residential and non-residential development shall require a minimum area of two (2) acres per dwelling unit or non-residential development use. No lot shall be less than two (2) acres. Development shall not exceed six percent (6%) built-upon area on a project by project basis. For the purpose of calculating built upon area, total project area shall include total acreage in the tract on which the project is to be developed. Nonconforming lots of record shall conform to **Section 203.**

c. **Existing Development.** Existing development is regulated under the provisions as stated in **Section 211**.

4. **Above Ground Storage Tanks.** A spill containment plan is required for all new above ground storage tanks with accumulative capacity of over 250 gallons. (Except for L.P. Gas Storage).

B. **Balance of Watershed (BOW).** The BOW is the entire land area contributing surface drainage to a specific point, the public water supply intake, minus the watershed critical area. In order to maintain a predominantly undeveloped land use intensity pattern in the BOW, single-family residential uses shall be allowed at a maximum of one dwelling unit per acre (1 d.u./ac.). No lot shall be less than one (1) acre. All multi-family residential and non-residential development shall require a minimum area of forty thousand square feet (40,000 sq. ft.) per dwelling unit or non-residential development use, when more than one unit or use is to be sited on a lot. Built-upon area shall not exceed twelve percent (12%) of lot area except for expansion of existing development (See **Section 211. A. -** Expansion of Existing Development.) All new lots to be used for multi-family structures, community business or industrial purposes shall be required to obtain a zoning permit from the County's Zoning Administrator before any building permits may be issued.

1. **Allowed Uses:**

- Agriculture, subject to the provision of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.

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

- Single-family residential development.

- Multi-family residential development.

- Non-residential development: Institutional, educational, religious, commercial, office, industrial or recreational.

- Non-discharging landfills.

2. **Prohibited Uses:**

- Sites for land application of residuals or petroleum contaminated soils.

- Discharging landfills.

- Storage of hazardous materials unless a spill containment plan is implemented.

3. **Density and Built-upon Limits:**

a. **Single-Family Residential.** Development shall not exceed one dwelling unit per acre on a project by project basis (1 d.u./ac.). No residential lot shall be less than one acre, except within an approved cluster development whose overall project density is no greater than one dwelling unit per acre. Nonconforming lots of record shall conform to **Section 203.**

b. **Multi-family Residential.** No lot shall be less than one (1) acre. Also, all multi-family residential development shall require a minimum area of forty thousand square feet (40,000 sq. ft.) for each unit located on a lot, as subject to Health Department approval. Development shall not exceed twelve percent (12%) built-upon area on a project by project basis. For the purpose of calculating built upon area, total project area shall include total acreage in the tract on which the project is to be developed. Nonconforming lots of record shall conform to **Section 203.**

c. **Non-Residential.** No lot shall be less than one (1) acre. Also, non-residential development shall require a minimum area of forty thousand square feet (40,000 sq. ft.) for each use located on a lot, as subject to Health Department approval. Development shall not exceed twelve percent (12%) built upon area on a project by project basis. For the purpose of calculating

built upon area, total project area shall include total acreage in the tract on which the project is to be developed. Nonconforming lots of record shall conform to **Section 203.**

4. **Special Non-Residential Intensity Allocation (SNIA).** Certain non-residential, specifically institutional uses, in the **Balance of the Watersheds (BOW)** may be allowed to exceed the limit of twelve percent (12%) built-upon area if they apply for approval under the Special Non-Residential Intensity Allocation (SNIA). Applicants shall apply to the Alamance County Planning Board, who shall make recommendation to the Board of County Commissioners. The Board of County Commissioners is authorized to approve SNIA's consistent with the provisions of this Ordinance.

a. If the Board of County Commissioners approves the SNIA, an individual project can be developed up to seventy percent (70%) built-upon area. Up to ten percent (10%) of the balance of any designated watershed may be developed with this special allocation. The SNIA allocation is permitted only in the following watersheds:

| **Watershed** | **Maximum SNIA Acres Available** |
|---|---|
| • Back Creek | 1,432 |
| • Stoney Creek | 2,938 |
| • Cane Creek | 164 |
| • Rocky River | 554 |
| • Haw River | 319 |
| • Big Alamance Creek | NA |

b. The SNIA allocation shall be used only for **institutional uses** within the balance of the above watersheds. Eligible institutional uses include: churches, schools, fire stations and governmental buildings. Projects must minimize built-upon surface areas and direct stormwater away from surface waters to minimize water quality impacts, as certified by an engineer registered in the State of North Carolina.

c. The Zoning Administrator in the Planning Department shall forward the request to the Planning Board for the SNIA allocation as well as keep records of the number of acres available to be developed under the SNIA allocation.

C. **Rural Community District (RCD).** This zoning district is designed to limit development and to preserve the rural character of an area. In order to maintain a predominantly undeveloped land use intensity pattern in the RCD, single-family residential uses shall be allowed at a maximum of one dwelling unit per acre (1 d.u./ac.). No lot used

for residential or community business purposes shall be less than one acre (43,560 sq. ft.). Lots used for industrial purposes shall be no less than 1 acre. All multi-family residential and non-residential development shall require a minimum area of forty thousand square feet (40,000 sq. ft.) per dwelling unit or non-residential development use, when more than one unit or use is to be sited on a lot. Built-upon area for business and industrial uses shall not exceed fifty percent (50%) of the lot area except for expansion of existing development (See **Section 211. A. -** Expansion of Existing Development.). A zoning permit shall not be required for the development of single-family homes. All new lots to be used for multi-family structures, community business or industrial purposes shall be required to obtain a zoning permit from the County's Zoning Administrator before any building permits may be issued.

1. **Allowed Uses:**

   - Agriculture, subject to the provision of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
   - Single-family residential development.
   - Multi-family residential development.
   - Non-residential development: Institutional, educational, religious, commercial, office, industrial or recreational except as specifically prohibited.
   - Non-discharging landfills.

2. **Prohibited Uses:**

   - Sites for land application of residuals or petroleum contaminated soils.
   - Sexually Oriented Businesses as defined by Alamance County's Ordinance Regulating Adult Establishments.
   - Discharging landfills
   - Medical waste facilities (portable or permanent).
   - Storage of hazardous materials unless a spill containment plan is implemented.

3. **Density and Built-upon Limits:**

   a. **Single-Family Residential.** Development shall not exceed one

dwelling unit per acre on a project by project basis (1 d.u./ac.). No residential lot shall be less than one acre, except within an approved cluster development whose overall project density is no greater than one dwelling unit per acre. Nonconforming lots of record shall conform to **Section 203.**

b. **Multi-family Residential.** No lot shall be less than one (1) acre. Also, all multi-family residential development shall require a minimum area of forty thousand square feet (40,000 sq. ft.) for each unit located on a lot, as subject to Health Department approval. Development shall not exceed fifty percent (50%) built-upon area on a project by project basis. For the purpose of calculating built upon area, total project area shall include total acreage in the tract on which the project is to be developed. Nonconforming lots of record shall conform to **Section 203.**

c. **Non-Residential.** No lot shall be less than one (1) acre. Also, non-residential development shall require a minimum area of forty thousand square feet (40,000 sq. ft.) for each use located on a lot, as subject to Health Department approval. Development shall not exceed fifty percent (50%) built upon area on a project by project basis. Certain non-residential, specifically institutional uses, in the **Rural Community District (RCD)** may be exempt from this provision with a recommendation from the Planning Board and approval by the County Commissioners. Eligible institutional uses include: churches, schools, fire stations and governmental buildings. 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. Nonconforming lots of record shall conform to **Section 203.**

**Section 203. Nonconforming Lot of Record.**

Nonconforming lots of record created before the original adoption date of the Watershed Protection Ordinance are not required to have a minimum area of one acre (43,560 sq. ft.). However, additional lot area may be required by the Alamance County Health Department.

**Section 204**. **Stream Buffer.**

A fifty foot (50') stream buffer shall be maintained on both sides of all perennial streams at all times to retard rapid water runoff and soil erosion. Perennial streams are identified as the solid blue lines on United States Geological Survey (U.S.G.S.) maps.

**Section 205. Lake Buffer.**

A one hundred foot (100') wide natural buffer shall be maintained around all water supply reservoirs, measured from the normal pool elevation outward. Desirable artificial streambank or shoreline stabilization is permitted. No new development is allowed in the buffer except for water

dependent structures and public projects such as road crossings and greenways where no practical alternative exists, and other structures causing diminutive increases in impervious areas such as flag poles, signs and security lights.

**Section 206. Cluster Development.**

Clustering of development is allowed in the Rural Community District (RCD) and the Balance of Watershed (BOW) only. Provisions for clustering of development shall meet overall density standards set forth in **Section 202**, as well as the standards in the Alamance County Subdivision Ordinance.

**Section 207. Bona Fide Farms.**

Bona fide farms are exempt from the watershed regulations. However, farms are subject to other federal, state and local regulations. A SCS (Soil Conservation Services) conservation plan for each farm or timber stand is highly desirable.

**Section 208. Site Plan Requirements.**

Site plans are required for all development other than single-family residences. Site plans should be submitted to the Zoning Administrator in the Planning Department for approval. A permit will not be issued until the site plan is approved. The plan will be acted upon within thirty (30) days of receipt. Site plans shall meet the following requirements:

A. Five copies of site plans shall be submitted on 18" X 24" sheets.

B. Plan should be to scale no smaller than 1" = 100'.

C. Plan shall show the following:

- Title block (Development name, owner/developer, township, scale and tax map number).
- Property lines.
- North arrow.
- Vicinity map.
- Legend.
- Location of existing and proposed structures and all other impervious improvements.
- Site data (total acres, total impervious area, total number of lots, etc.).

- Easements - location width and purpose.
- Location of ponds, lakes and perennial streams.
- Location and elevation of 100-year flood plain and marginal land.
- Location of septic tank and drainage field or public utilities.
- Sedimentation and erosion controls measures.
- Representative topography (Alamance County's topographic maps).
- Front, side and rear yard requirements.
- Surveyor or engineers seal.
- Lake and stream buffers.
- Date.

**Section 209. Rules Governing the Interpretation of Zone Boundaries.**

Where uncertainty exists as to the boundaries of the zoning areas, as shown on the Zoning 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 zone 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 a zoned area.

C. Where the zone boundary lies at a scaled distance **more** than twenty-five feet (25') from any parallel lot line, the location of the zone boundary shall be determined by use of the scale appearing on the zoning map.

D. Where the zone boundary lies at a scaled distance of twenty-five feet (25') or less from any parallel lot line, the location of the zone boundary shall be construed to be the lot line.

E. Where other uncertainty exists, the Zoning Administrator in the Planning Department shall interpret the Zoning Map as to location of such boundaries. This decision

may be appealed to the Board of Adjustment.

**Section 210. 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 zoned 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 determining compliance required for another building.

C. Every residential building, (including manufactured homes), hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in **Section 211**.

D. If a use or class of use is not specifically indicated as being allowed in a zoned area, such use or class of use is prohibited.

**Section 211. Existing Development.**

Any existing development, as defined in this Ordinance, may be continued and maintained subject to the provisions provided herein.

A. **Expansion of Existing Development.**

1. Expansions of single-family residential development may be undertaken without restrictions.

2. Expansions to all multi-family residential development and all non-residential development may be made without including the built-upon area of the existing development in the density calculations. However, the total built-upon area added to a lot after the effective date of this Ordinance may not exceed the built-upon requirements of the RCD, BOW or WCA zone, as appropriate.

B. **Reconstruction of Buildings or Built-upon Areas.** Single-family residential development may be repaired and/or reconstructed without restriction. 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 an additional two (2) years of such damage.

2. The total amount of space devoted to built-upon area may not be increased unless the additional built-upon area meets the expansion requirements of **Section 211(A)**.

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 zone 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 as a non-permitted use shall be changed only to an allowed use.

3. When such a non-permitted use ceases for a period of at least twelve (12) consecutive months, it shall not be re-established.

D. **Vacant Lots.** This category consists of vacant lots for which plats or deeds have been recorded in accordance with the Alamance County Subdivision Ordinance in the office of the Register of Deeds of Alamance County. A lot may be used for any of the uses allowed in the zoned area in which it is located. Multiple contiguous lots of record under the same ownership shall not be required to be recombined to meet zoning rules.

**Section 212. Zoning 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 Zoning Permit has been issued by the Zoning Administrator in the Planning Department. Single-family development is exempt from the requirement of obtaining a Zoning Permit.

B. No Zoning Permit shall be issued except in conformity with the provisions of this Ordinance.

C. Zoning Permit applications shall be filed with the Zoning Administrator in the Planning Department. The application shall include a completed application form and supporting documentation.

D. Prior to the issuance of a Zoning Permit, the Zoning Administrator in the Planning Department may consult with qualified personnel for assistance to determine if the application meets the requirements of this Ordinance.

E. A Zoning Permit shall expire if a Building Permit or Zoning Occupancy Permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

**Section 213. Building Permit Required.**

No permit required under the North Carolina State Building Code shall be issued for any activity until a Zoning Permit is issued. Single-family residential development is exempt from the Zoning Permit requirement.

**Section 214. Zoning Occupancy Permit.**

A. The Zoning Administrator in the Inspections Department shall issue a Zoning Occupancy Permit certifying that all requirements of this Ordinance have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.

B. A Zoning Occupancy Permit, either for the whole or part of a building, shall be applied for coincidental with the application for a Zoning Permit and shall be issued or denied within ten (10) days after construction is approved by the Inspections Department.

C. When a change in use of land or use of an existing building occurs, the Zoning Administrator shall issue a Zoning Occupancy Permit certifying that all requirements of this Ordinance have been met coincidental with the Zoning Permit.

D. No building or structure which has been erected, moved, or structurally altered may be occupied until the Zoning Administrator in the Inspections Department has approved and issued a Zoning Occupancy Permit.

E. If the Zoning Occupancy Permit is denied, the Zoning Administrator in the Inspections Department shall notify the applicant in writing stating the reasons for denial.

## ARTICLE 300: ADMINISTRATION, ENFORCEMENT AND APPEALS

**Section 301. Zoning Administrator and Duties thereof.**

A. The Alamance County Board of County Commissioners shall appoint Zoning Administrators, who shall be duly sworn in. A representative from the Planning and Inspections Departments shall serve as Zoning Administrators. This Ordinance shall be jointly enforced by the Planning and Inspections Department in the areas of the County outside the planning jurisdiction of the municipalities. It shall be the duty of the Zoning Administrators to administer and enforce the provisions of this Ordinance as follows:

1. The Zoning Administrator in the Planning Department shall issue Zoning Permits as prescribed herein. The Zoning Administrator in the Inspections Department shall issue Zoning 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.

2. The Zoning Administrator in the Inspections Department shall serve as clerk

to the Board of Adjustment.

3. The Zoning Administrator in the Planning Department shall keep records of all amendments to the local Watershed Protection Zoning Ordinance and shall provide copies of all amendments upon adoption to the, Division of Water Quality of the Department of Environment, Health and Natural Resources (DEHNR).

4. The Zoning Administrator in the Planning Department shall keep records of the jurisdiction's utilization of the Special Non-Residential Intensity Allocation (SNIA) provision. Records for each watershed shall include the total acres of the balance of the watershed, 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, and use, as applicable.

5. The Zoning Administrators are granted the authority to administer and enforce the provisions of this Ordinance, exercising in the fulfillment of their responsibility the full police power of the County except that no civil or criminal action can be taken without the expressed permission of the County Manager. The Zoning Administrators, or their duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon them by this Ordinance.

6. The Zoning Administrator in the Inspections Department shall keep a record of variances to the Watershed Protection Zoning Ordinance. This record shall be submitted for each calendar year to the Division of Water Quality; of the DEHNR on or before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons or granting the variance.

**Section 302. Hazardous Materials Inventory.**

An inventory of hazardous materials as applicable to **Article 400** shall be kept in the Alamance County Emergency Management Office.

**Section 303. Spill Containment Plan.**

All spill containment plans required for new above ground storage tanks shall be kept on file in the Alamance County Emergency Management Office.

**Section 304. Appeal from the Zoning Administrator.**

A. Any order, requirement, decision or determination made by the Zoning Administrator may be appealed to and decided by the Board of Adjustment.

B. Any appeal from a decision of the Zoning Administrator must be submitted to the Board of Adjustment 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 Zoning Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

C. 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.

D. 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 305. Changes and Amendments.**

A. The Board of County Commissioners may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the zoning regulations and restrictions as described herein.

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

C. Under no circumstances shall the Board of County Commissioners adopt such amendments, supplements or changes that would cause this Ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the DEHNR, Division of Community Assistance.

**Section 306. Board of Adjustment.**

A. The Alamance County Board of Adjustment consists of seven (7) members appointed by the Alamance County Board of Commissioners. This Board shall be appointed for three year terms. The Board shall exercise those provisions granted by G.S. 153A-345.

B. Three (3) alternate members shall be appointed to serve on the Board of Adjustment in the absence of any regular member and shall be appointed for three (3) year terms. While attending in the capacity of a regular member, the alternate shall have and exercise all the powers and duties of the absent regular member.

C. Members on the Board of Adjustment must reside within a designated zoning district of Alamance County.

D. The Board of Adjustment shall establish "Rules of the Board of Adjustment" for

procedures in accordance with G.S. 153A-345.

E. Members of the Board of Adjustment may be removed by the Alamance County Board of Commissioners for, among other reasons, violation of the rules stated below:

1. 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.

2. 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 percent 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).

3. 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 a Zoning Administrator or any other member of the Board, its secretary or clerk prior to the hearing.

4. Members of the Board shall not express individual opinions on the proper judgement of any case prior to its determination on that case.

5. 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.

6. 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.

F. The Powers and Duties of the Board of Adjustment shall be as follows:

1. Administrative Review. The Board of Adjustment shall hear and decide appeals from any decision or determination made by a Zoning Administrator in either the Planning Department or the Inspections Department in the enforcement of this Ordinance.

2. Variances. The Board of Adjustment shall have the power to authorize, in specific cases, minor variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Major variances shall be handled procedurally in the same manner as minor variances. However, approval of major variances is subject to approval or denial by the Environmental Management

Commission (EMC) as outlined in this Ordinance. If the Alamance County Board of Adjustment rules to deny a major variance, this major variance request will not be forwarded to the Environmental Management Commission (EMC). Appeals must be made directly to Superior Court in Alamance County to appeal a denial of a major variance from the Board of Adjustment.

a. Applications for a variance (minor and major) shall be made on the proper form obtainable from the Zoning Administrator in the Inspections Department and shall include the following information:

(1) A site plan drawn to the requirements of **Section 207**.

(2) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Board of Adjustment in considering the application.

(3) The Zoning Administrator in the Inspections Department shall notify in writing each local government having jurisdiction in the watershed, as well as the user (intake) of 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 Zoning Administrator in the Inspections Department prior to a decision by the Board of Adjustment. Such comments shall become a part of the record of proceedings of the Board of Adjustment.

b. Before the Board of Adjustment 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:

(1) **FINDING ONE:** 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 of Adjustment must find that the five (5) following conditions exist:

(a) If the applicant complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.

(b) The hardship results from the application of the

Ordinance to the property rather than from other factors such as deed restrictions or other hardship.

(c) 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.

(d) The hardship is not the result of the actions of an applicant who knowingly or unknowing violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.

(e) 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.

(2) **FINDING TWO:** The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.

(3) **FINDING THREE:** 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.

c. 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.

d. The Board of Adjustment 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.

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

f. If the application calls for the granting of a major variance, and if the Board of Adjustment decided in favor of granting the variance, the Secretary to the Board of Adjustment shall prepare a preliminary record of the hearing

with all deliberate speed. The preliminary record of the hearing shall include:

(1) The variance application;

(2) The hearing notices;

(3) The evidence presented;

(4) Motions, offers of proof, objections to evidence, and rulings on them;

(5) Proposed findings and exceptions;

(6) The proposed decision, including all conditions proposed to be added to the permit.

g. The preliminary record shall be sent to the Environmental Management Commission (EMC) for its review. If the Commission concludes from the preliminary record that the variance qualifies as a major variance, the Commission shall either approve or deny the variance as proposed. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. If the EMC denies the variance an appeal must be made to Superior Court in Wake County, North Carolina. The Board of Adjustment shall prepare a final decision approving or denying the variance as proposed.

**Section 307. Appeals from the Board of Adjustment.**

Appeals from the Board of Adjustment must be filed with the Superior Court in accordance with G.S. 153-345(E).

## ARTICLE 400: WATERSHED MANAGEMENT PLAN

The purpose of the Management Plan is to document industries that are located within the County's watershed boundaries which use, store or manufacture chemicals that could potentially pose a threat to water quality. The Management Plan will be used to verify that the hazardous materials inventory of each industry is up to date and kept on file in the Alamance County Emergency Management Office. The Toxic Chemical Release Inventory and response plan which is required under SARA Title III legislation is maintained by the Environmental Protection Agency (EPA). Also, the Alamance County Emergency Management Office maintains a computerized list of SARA Title III facilities. There are 302 extremely hazardous and 312 hazardous materials facilities (i.e. 10,000 pounds or more) within Alamance County.

## ARTICLE 500: DEFINITIONS

**Balance of Watershed (BOW).** The entire land area contributing surface drainage to a specific point, the public water supply intake, minus the watershed critical area.

**Bona Fide Farm.** A land use to derive income from growing plants, trees or livestock on land, and not including land used primarily for another use and incidentally for growing trees, plants or livestock for income.

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

**Building.** Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

**Built-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 areas (such as roads, parking lots, paths), recreation facilities (such as tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

**Cluster Development.** Cluster development means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential and multi-family developments. For the purpose of this Ordinance, planned unit developments and mixed use development are considered as cluster development.

**Development.** Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

**Discharging Landfill.** A 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.

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

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

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

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

(3) having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1).

**Existing Lot .** A lot or tract of land 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 or tract of land described by metes and bounds, the description of which has been so recorded prior to the adoption of this Ordinance.

**Hazardous Production Material (HPM).** A solid, liquid or gas that has a degree rating in health, flammability or reactivity of Class 3 or 4 as ranked by NFIPA 704 and which is used directly in research, laboratory or production processes which have as their end product materials which are not hazardous, as defined in the North Carolina State Building Code Volume V - Fire Prevention.

**Highly Toxic Material (HTM).** A material which produces a lethal dose or lethal concentration within those categories as defined by the Code of Federal Regulations: Title 29, CFR 1910.1200, as defined in the North Carolina State Building Code Volume V - Fire Prevention.

**Impervious Surface.** (See Built-Upon Area).

**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.

**Lot of Record**. (See Existing Lot).

**Major Variance.** A variance from the minimum statewide watershed protection rules, that results in any one or more of the following;

(1) the relaxation, by a factor greater that ten (10) percent, or any management requirement under the low density option;

(2) the relaxation, by a factor greater than five (5) percent, of any buffer, density or built upon area requirement under the high density option;

(3) any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system.

**Minor Variance.** A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to ten (10) percent of any buffer, density or built-upon area requirement under the low density option.

**Multi-Family Residential.** Any development where: 1) a single building contains more than one dwelling unit, 2) more than one dwelling unit is on a separate deeded lot or manufactured home park lot, and/or 3) a lot contains more than one dwelling unit.

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

**Non-residential Development.** All development other than residential development.

**Perennial Streams.** Streams located on U.S.G.S. maps shown as solid blue lines.

**Residential Development.** Any development in which its primary purpose is to serve for residential housing and its related accessory functions.

**Road.** (See Street).

**Single-Family Residential.** Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate deeded lot or a manufactured home park lot and 3) where no lot contains more than one dwelling unit.

**Solid Waste Management Facility.** Means land, personnel and equipment used in the management of solid waste as defined in Title 15A of the North Carolina Administrative Code.

**Special Non-Residential Intensity Allocation (SNIA) -** A built-upon area allocation made under the procedures of the SNIA.

**Street.** 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.

**Variance.** A permission to develop or use property granted by the Board of Adjustment relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission (EMC) that is incorporated into this Ordinance. (Also see Major Variance and Minor Variance.)

**Vested Right.** A right pursuant to G.S. 153A-344.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

**Water Dependent Structure.** Any structure for which the use requires access to or proximity to or sitting 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, the public water supply intake.

**Watershed Critical Area (WCA).** 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 a water supply reservoir 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).

**Watershed Management Plan.** A plan that documents industries that are located within watershed boundaries which use, store or manufacture chemicals that could potentially pose a threat to water quality and the response procedures for handling spills and/or discharges.

**Zoning Administrator.** An official or designated person or persons of Alamance County appointed by the Board of County Commissioners responsible for the administration and enforcement of this Ordinance.

## ARTICLE 600: WORD INTERPRETATION

For the purpose of this Ordinance, certain words shall be interpreted as follows:

Words in the present tense include the future tense.

Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, municipal 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 700: EFFECTIVE DATE

This Ordinance shall take effect and be in force on April 19, 2004.

Adopted this the 19th day of April, 2004.

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The foregoing ordinance was adopted by the Board of Commissioners for the County of Alamance during regular session on April 19, 2004. See Minute Book No. 37, Page 14.