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AMENDED

WILKES COUNTY WATERSHED ORDINANCE

WILKES COUNTY, NORTH CAROLINA

AMENDED

**WATERSHED PROTECTION ORDINANCE
WILKES COUNTY**

WILKES COUNTY, NORTH CAROLINA

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF WILKES IN REGULAR SESSION ASSEMBLED:

SECTION 1.1 TITLE AND PURPOSE

This Ordinance shall be known as the Amended Wilkes County Watershed Protection Ordinance and is referred to as "this Ordinance" in Sections 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 hereof. The purpose of this Ordinance is to protect the quality of drinking water for Wilkes County by setting standards for the development that occurs within designated Public Water Supply Watershed areas. It is further intended that the establishment of watershed regulations reflect the protection of critical environmental areas in accordance with the State of North Carolina's Water Supply Watershed Protection Rules.

SECTION 1.2 ADOPTION DATE AND EFFECTIVE DATE

The provisions of this Ordinance were adopted by the Wilkes County Board of Commissioners in regular session on September 16, 1997, and are effective as of said date. This Ordinance supersedes the Wilkes County Watershed Protection Ordinance which was adopted by the Wilkes County Board of Commissioners in regular session on December 6, 1993, and which became effective on December 31, 1993.

SECTION 1.3 AUTHORITY AND ENACTMENT

The Legislature of the State of North Carolina has, under Chapter 153A, Article 6, Section 121, General Ordinance-Making Power, and under Chapter 143, Article 21, Part 1, Section 143-214.5, Water Supply Watershed Protection, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of the citizenry, and directed the adoption of and implementing local ordinance as part of a Water Supply Watershed Protection Program. The County Commissioners of Wilkes County hereby ordain and enact into law the provisions set forth herein as the Amended Watershed Protection Ordinance for Wilkes County. Attached to this Ordinance is a letter from the North Carolina Environmental Management Commission dated December 11, 1997, approving said Ordinance.

SECTION 1.4 JURISDICTION

The provisions of this Ordinance shall apply within the areas designated as Public Supply Watershed by the N.C. Environmental Management Commission and shall be defined and established on the map entitled "Watershed Protection Map of Wilkes 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.

SECTION 1.5 EXCEPTION TO APPLICABILITY

- (A) Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Ordinance, amend, modify, or restrict any provisions of the Code of Ordinances of Wilkes County; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in Wilkes County at the time of the adoption of this Ordinance that may be construed to impair or reduce its effectiveness 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 hereunder. Expansions to structures classified as existing development must, however, meet the requirements of this Ordinance; provided, that the built-upon area of the existing development shall not be 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 hereunder.

SECTION 1.6 ZONING POWER

This Ordinance is adopted pursuant to the zoning power of Wilkes County and shall become a part of the Wilkes County Zoning Ordinance as hereinafter set forth.

SECTION 1.7 DEFINITIONS AND WORD INTERPRETATION

THE INTRODUCTORY PARAGRAPH OF ARTICLE IV OF THE WILKES COUNTY ZONING ORDINANCE IS HEREBY AMENDED TO READ AS FOLLOWS:

For the purpose of interpreting this Ordinance and the Amended Wilkes County Watershed Protection Ordinance, certain words or terms are herein defined. The following words shall, for the purpose of this Ordinance and the Amended Wilkes County Watershed Protection Ordinance, have the meaning herein indicated.

ARTICLE IV, SECTION 40 OF THE WILKES COUNTY ZONING ORDINANCE IS HEREBY AMENDED TO READ AS FOLLOWS:

- 40.1 Words used in the present tense include the future tense.
- 40.2 Words used in the singular number include the plural, and words used in plural number include the singular unless the natural construction of the wording indicates otherwise.
- 40.3 The word "person" includes a firm, association, corporation, trust, and company, as well as an individual.
- 40.4 The words "used for" shall include the meaning "designed for."
- 40.5 The word "structure" shall include the words "building," "plot," "parcel," or "tract."
- 40.6 The word "lot" shall include the words "plot," "parcel," or "tract."
- 40.7 The word "shall" is always mandatory and not merely directory.
- 40.8 The word "will" is always mandatory and not merely directory.
- 40.9 The words "used" or "occupied" include the words "intended, designed or arranged to be used or occupied."
- 40.10 Terms not herein defined shall have the meanings customarily assigned to them.

ARTICLE IV, SECTION 41 OF THE WILKES COUNTY ZONING ORDINANCE IS HEREBY AMENDED BY ADDING THE FOLLOWING DEFINITIONS:

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

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

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

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

Cluster Development . The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

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

Critical Area . The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than the remaining portions of the watersheds. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Since WS-I watershed is essentially undeveloped, establishment of a critical area is not required. 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-half mile.

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

Existing Development . Those 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 General Statutes (G.S. 153A-344.1 and 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 the General Statutes (G.S. 153A-344.1 and 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, which is described by metes and bounds or other existing approved methods, the description of which has been so recorded prior to the adoption of this Ordinance.

Hazardous Material . Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

Industrial Development . Any non-residential development that requires an NPDES permit for any industrial discharge be and/or requires the use of storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

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

- (1) the complete waiver of a management requirement;
- (2) the relaxation, by a factor of more than ten percent (10%), 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.

Minor Variance . A variance that does not qualify as a major variance.

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

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

Protected Area . The area within a designated water supply watershed that is not a critical area as defined in this Ordinance.

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.

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

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 offspring or other adverse health effects.

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).

SECTION 1.8 ZONING ENFORCEMENT OFFICER

ARTICLE X. SECTION 100 OF THE WILKES COUNTY ZONING ORDINANCE IS HEREBY AMENDED TO READ AS FOLLOWS:

The County Commissioners shall appoint an administrative officer, titled Zoning Enforcement Officer, to enforce this Ordinance and the Amended Watershed Protection Ordinance. The assistance of other persons may be provided as the County Commissioners may direct.

If the Zoning Enforcement Officer finds that any of the provisions of this Ordinance or the Amended Watershed Protection Ordinance are being violated, he shall notify in writing the person responsible for such violations, 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 other action authorized by this Ordinance or the Amended Watershed Protection Ordinance to ensure compliance with or to prevent violation of the provisions thereof.

If a ruling of the Zoning Enforcement Officer is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment, except that appeals from rulings under the Amended Watershed Protection Ordinance shall be made to the Watershed Review Board.

SECTION 1.9 WATERSHED PROTECTION

THE WILKES COUNTY ZONING ORDINANCE IS HEREBY AMENDED BY ADDING A NEW ARTICLE XV THERETO, TO READ AS FOLLOWS:

ARTICLE XV

WATERSHED PROTECTION

Section 150 . Purpose

The purpose of this Article is to list and describe the watershed areas herein adopted, to set forth the restrictions which shall apply for each watershed area as contained on the Watershed Map, and to provide for the administration of the provision contained herein.

Section 151 . Watershed Review Board

There is hereby created the Watershed Review Board, which shall administer the provisions of the Amended Watershed Protection Ordinance along with the Zoning Enforcement Officer, as provided herein. The Watershed Review Board shall hear all requests for major and minor variances, hear all cases concerning vested rights, hear and take any necessary action upon reports by the Zoning Enforcement Officer concerning activities within watershed area which may pose a threat to water quality, hear all appeals from rulings or decisions of the Zoning Enforcement Officer, and review and make recommendations to Board of County Commissioners with respect to any proposed amendment to the Amended Watershed Protection Ordinance.

The Wilkes County Joint Planning Board shall constitute the Watershed Review Board.

Section 152 . Establishment of Watershed Areas

The Watershed Areas adopted hereunder are as follows:

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

Section 153 . Watershed Areas Described; Allowed Uses and Restrictions .

- (A) WS-I Watershed Areas . The intent is to provide maximum protection for water supplies within essentially natural and undeveloped watersheds by allowing only low intensity uses. No residential or non-residential uses are allowed except those listed below. Impacts from non-point source pollution shall be minimized.

(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 01, 1994 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.A. 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 01, 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 NCA II.6101-.0209).
- (c) Water withdrawal, treatment and distribution facilities.
- (d) Restricted road access.

(2) Density and built-upon limits do not apply.

- (B) WS-II Watershed Areas-Critical Area (WS-II-CA) . In order to maintain a predominantly undeveloped land use intensity pattern, single family residential uses shall be allowed at a maximum of one dwelling unit per two (2) acres. All other residential and non-residential development shall be allowed at a maximum six percent (6%) built-upon area. New sludge application sites and landfills are specifically prohibited.

(1) Allowed Uses:

- (a) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. Agricultural activities conducted after January 01, 1994 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 01, 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 II.6101-0209).
 - (c) Residential development, including both single family and all other residential.
 - (d) Non-residential development, excluding: (1) the storage of toxic and hazardous materials unless a spill containment plan is implemented, (2) landfills, and (3) sites for land application of sludge/residuals or petroleum contaminated soils. New industrial development is required to incorporate adequately designed, constructed and maintained spill containment structures if hazardous materials are either used, stored or manufactured on the premise.
- (2) Density and Built-upon Limits:
- (a) Single Family Residential - - development shall not exceed one (1) dwelling unit per two (2) acres on a project by project basis. No residential lot shall be less than (2) acres, except within an approved cluster development.
 - (b) All Other Residential and Non-Residential - - 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.
- (C) WS-II Watershed Areas - Balance of Watershed Area (WS-II-BW) In order to maintain a predominantly undeveloped land use intensity pattern, single family residential uses shall be allowed at a maximum one (1) dwelling unit per acre. All other residential and non-residential development shall be allowed a maximum of twelve (12%) percent built-upon area. Projects must minimize built-upon surface area, direct some water away from surface waters and incorporate Best Management Practices to minimize water quality impacts. Non-discharging landfills and sludge application sites are allowed.
- (1) Allowed Uses:
- (a) Agricultural, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.

- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II.6101-.0209).
 - (c) Residential development.
 - (d) Non-residential development excluding discharging landfills and the storage of toxic and hazardous materials unless a spill containment plan is implemented.
- (2) Density and Built-upon Limits:
- (a) Single Family Residential - - development shall not exceed one (1) dwelling unit per acre on a project by project basis. No residential lot shall be less than one (1) acre, except within an approved cluster development.
 - (b) All Other Residential and Non Residential - - development shall not exceed twelve percent (12%) built-upon area on a project by project basis. For the purpose calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- (D) WS-III Watershed Areas - Critical Area (WS-III-CA). In order to maintain a low to moderate land use intensity pattern, single family residential uses are allowed at a maximum of one (1) dwelling unit per acre. All other residential and non-residential development shall be allowed to a maximum of twelve percent (12%) built-upon area. New sludge application sites and landfills are specifically prohibited.
- (1) Allowed Uses:
- (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 01, 1994 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 01, 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 II.6101-029).
 - (c) Residential.
 - (d) Non-residential development, excluding: (1) the storage of toxic and hazardous materials unless a spill containment plan is implemented, (2) landfills, and (3) sites for land application of sludge/residuals or petroleum contaminated soils. New industrial development is required to incorporate adequately designed, constructed and maintained spill containment structures if hazardous materials are either used, stored or manufactured on the premises.
- (2) Density and Built-upon Limits:
- (a) Single Family Residential - - development shall not exceed one (1) dwelling unit per acre on a project by project basis. No residential lot shall be less than one (1) acre, except within an approved cluster development.
 - (b) All Other Residential and Non-Residential - - development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- (E) WS-III Watershed Areas - Balance of Watershed (WS-III-BW). In order to maintain a low to moderate land use intensity pattern, single family detached uses shall develop at a maximum of two (2) dwelling units per acre. All other residential and non-residential development shall be allowed a maximum of twenty-four percent (24%) built-upon area. Non-discharging landfills and sludge application sites are allowed.
- (1) Allowed uses:
- (a) Agriculture, subject to the provisions of the Food Security act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990.
 - (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 excluding discharging landfills and the storage of toxic and hazardous materials unless a spill containment plan is implemented.
- (2) Density and Built-Upon Limits:
- (a) Single Family Residential - development shall not exceed two (2) dwelling units per acre on a project by project basis. No residential lot shall be less than one-half (1/2) acre, except within an approved cluster development.
 - (b) All Other Residential and Non-Residential -- development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- (F) WS-IV Watershed Areas - Critical Area (WS-IV-CA). Only new development activities that require an erosion/sedimentation control plan under State law or approved local programs are required to meet the provisions of this Ordinance when located in the WS-IV watershed. In order to address a moderate to high land intensity pattern, single family residential uses are allowed at a maximum of two (2) dwellings units per acre. All other residential and non-residential development shall be allowed twenty-four (24) percent built-upon area. New sludge application sites and landfills are specifically prohibited.

(1) Allowed uses:

- (a) Agriculture subject to the provisions of the Food Security Act of 1985 and the Trade Act of 1990. Agricultural activities conducted after January 01, 1994, 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 II.6101-.0209).
- (c) Residential.
- (d) Non-residential development, excluding: (1) the storage of toxic and hazardous materials unless a spill containment plan is implemented, (2) landfills, and (3) sites for land application of sludge/residuals or petroleum contaminated soils.

(2) Density and Built-upon Limits:

- (a) Single Family Residential - - development shall not exceed two (2) dwelling units per acre on a project by project basis. No residential lot shall be less than one-half (1/2) acre, except within an approved cluster development.
 - (b) All other Residential and Non-Residential - - development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.
- (G) WS-IV Watershed Areas - Protected Area (WS-IV-PA) . Only new development activities that require an erosion/sedimentation control plan under State Law or approved local government programs are required to meet the provisions of this

Ordinance when located in a WS-IV watershed. In order to address a moderate to high land use intensity pattern, single family residential uses shall develop at a maximum of two (2) dwelling units per acre. All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area.

(1) Allowed Uses:

- (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990.
- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II.6101-.0209).
- (c) Residential development.
- (d) Non-residential development, excluding the storage of toxic and hazardous materials unless a spill containment plan is implemented.

(2) Density and Built-upon Limits:

- (a) Single Family Residential - - development shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than one-half (1/2) acre, or one-third (1/3) acre for projects without a curb and gutter system, except within an approved cluster development.
- (b) All Other Residential and Non-Residential development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project 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.

SECTION 154 . CLUSTER DEVELOPMENT

Clustering of development is allowed in all Watershed Areas (except WS-I) under the following conditions:

- (A) Built-upon area or storm water control requirements of the project shall not exceed that allowed for the critical area or balance of watershed, whichever applies.
- (B) All built-upon area shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated storm water 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 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 needs.

Section 155. Buffer Areas Required

- (A) A minimum thirty (30) foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.
- (B) 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. These activities should minimize built-upon surface area, direct runoff way from the surface waters and maximize the utilization of storm water Best Management Practices.

Section 156 . 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 constructed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to Wilkes 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 Zoning Enforcement Officer shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

Section 157 . 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.

Section 158 . Watershed Protection Permit .

- (A) Except where a single family residence is constructed on a lot deeded prior to the effective date of this Ordinance, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any zoning or 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 Zoning Permit Officer. 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 Zoning Enforcement Officer. The application shall include a completed application form and supporting documentation deemed necessary by the Zoning Enforcement Officer.

- (C) Prior to issuance of a Watershed Protection Permit, the Zoning Enforcement Officer 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 Zoning or Building Permit for such use is not obtained by the applicant with twelve (12) months from the date of issuance.

Section 159 . Watershed Occupancy Permit .

- (A) The Zoning Enforcement Officer shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this Ordinance have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.
- (B) A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) days after the erection or structural alterations of the building.
- (C) When only a change in use of land or existing building occurs, the Zoning Enforcement Officer 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 Zoning Enforcement Officer 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 Zoning Enforcement Officer has approved and issued a Watershed Protection Occupancy Permit.

Section 160 . Public Health .

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.

Section 161 . Abatement.

- (A) The Zoning Enforcement Officer shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
- (B) The Zoning Enforcement Officer shall report all findings to the Watershed Review Board. The Zoning Enforcement Officer 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.
- (D) The Zoning Enforcement Officer shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted for each calendar year to the Division of Water Quality on or before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

Section 162 . Requests for Variances.

- (A) Upon receiving a request for a variance the Zoning Enforcement Officer shall notify in writing and allow a reasonable comment period for each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Zoning Enforcement Officer 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.
- (B) If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of recommending approval of the variance, the Board 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 ruling on them;
- (5) Proposed findings and exceptions; and
- (6) The proposed decision, including all conditions proposed to be added to the permit.

The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

- (1) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the 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.
 - (2) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance, or (2) the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.
- (C) If the application calls for the granting of a minor variance, then the Watershed Review Board may grant such variance if it determines that to do so would not result in a serious threat to the water supply.

SECTION 1.10 AMENDMENTS:

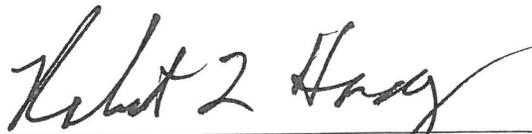
ARTICLE XII OF THE WILKES COUNTY ZONING ORDINANCE IS HEREBY AMENDED BY ADDING A NEW SECTION 124 THERETO, TO READ AS FOLLOWS:

Section 124 . Amended Watershed Protection Ordinance.

Notwithstanding any other provision of this Article XII, the procedure for amending the Amended Watershed Protection Ordinance (Article XV) shall be as set forth in this Section 124.

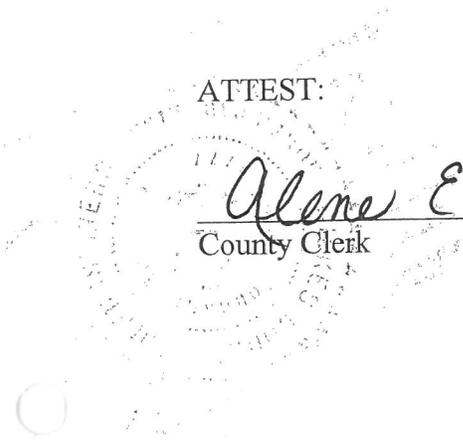
- (A) The Board of County Commissioners may, on its own motion or on petition, after public notice and hearing, amend, supplement, change, or modify the provisions of the Amended Watershed Protection Ordinance.
- (B) No action shall be taken by the Board of County Commissioners until the proposal for amendment, supplementation, change, or modification 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 said Board, then 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 amendments, supplements, changes, or modifications that would cause the Amended Watershed Protection Ordinance to violate the Watershed Protection Rules as adopted by the Environmental Management Commission. All amendments, supplements, changes, or modifications must be filed, upon adoption with the N.C. Division of Water Quality, N.C. Division of N.C. Environmental Health, and the N.C. Division of Community Assistance.
- (D) The Notice of Public Hearing as required in paragraph (A) above shall be given in a newspaper having general circulation in the area and shall be published not less than ten (10) days prior to the date fixed for the hearing.

On motion of Commissioner Roy Absher, seconded by Commissioner Joe Woodie, the foregoing Ordinance was read, approved and adopted by the Board of Commissioners of Wilkes County, in regular session assembled, on the 16th day of September, 1997.



Chairman, Wilkes County Board of Commissioners

ATTEST:



County Clerk



ENVIRONMENTAL MANAGEMENT COMMISSION

NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT, HEALTH AND NATURAL RESOURCES

David H. Moreau
Chairman
Charles H. Peterson
Vice Chairman

James B. Hunt, Jr., Governor
Wayne McDevitt, Secretary

Charles L. Baker
Daniel V. Besse
Douglas S. Boykin
Moses Carey, Jr.
Franklin S. Clark, III, M.D.
Carla E. DuPuy
Robert Epting
Will B. Fowler
Alice D. Garland
Dennis C. Lofflin
Edwin S. Melvin
Jeffrey V. Morse
Ryan D. Turner
Richard V. Watkins
Lawrence R. Zucchini

December 11, 1997

Mr. Gary Page
County Manager
Wilkes County
110 North Street
Wilkesboro, NC 28697

Re: Water Supply Watershed Protection Ordinance -- Wilkes County

Dear Mr. Page,

The purpose of this letter is to inform you that the Water Quality Committee (WQC) of the Environmental Management Commission (EMC), in their December 10, 1997 meeting, reviewed and approved Wilkes County's water supply watershed protection ordinance submitted in accordance with the Water Supply Watershed Protection Act (NCGS 143-214.5). Please be advised that any subsequent amendments to the ordinance must meet or exceed the minimum statewide standards and must be submitted to the Division of Water Quality (DWQ) for approval. The WQC and the Division are extremely pleased with the effort which Wilkes County and other local governments have demonstrated throughout this process.

If you have any questions regarding the Water Quality Committee's decision or regarding the Water Supply Watershed Protection Program, please contact Brent McDonald at (919) 733-5083, extension 508. Your interest and cooperation in protecting one of our state's most vital natural resources, water supply watersheds, is greatly appreciated.

Sincerely,

Charles H. Peterson

cc: Brent C. McDonald
Steve Mauney, WSRO DWQ
Alan Lang, ARO DCA
Jim Absher, Wilkes County Zoning
DWQ Central Files

a Watershed Protection Permit authorizing seventy percent (70%) built-upon area for the project so approved. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters, and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

A new subsection (E)(2)(c) is added to read as follows:

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

* * *

(2) Density and Built-upon Limits:

* * *

(c) 10/70 Development -- In addition to the development allowed under (a) and (b) above, new development may occupy ten percent (10%) of the watershed area which is outside the critical area, with seventy percent (70%) built-upon area, when approved as a special intensity allocation (SIA). Allocation of this development privilege shall be made by the Board of County Commissioners on a project-by-project basis following review and recommendation by the Watershed Review Board, which recommendation shall be considered by but shall not be binding upon the Board of County Commissioners. The approval of SIA's and 10/70 development as authorized hereunder shall be restricted solely to projects involving churches, schools, or fire departments. Upon approval of an SIA for a particular project by the Board of County Commissioners, the Zoning Enforcement Officer may issue a Watershed Protection Permit authorizing seventy percent (70%) built-upon area for the project so approved. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters, and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

A new subsection (G)(2)(c) is added to read as follows:

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

* * *

(2) Density and Built-upon Limits:

* * *

(c) 10/70 Development -- In addition to the development allowed under (a) and (b) above, new development may occupy ten percent (10%) of the watershed area which is outside the critical area, with seventy percent (70%) built-upon area, when approved as a special intensity allocation (SIA). Allocation of this development privilege shall be made by the Board of County Commissioners on a project-by-project basis following review and

recommendation by the Watershed Review Board, which recommendation shall be considered by but shall not be binding upon the Board of County Commissioners. The approval of SIA's and 10/70 development as authorized hereunder shall be restricted solely to projects involving churches, schools, or fire departments. Upon approval of an SIA for a particular project by the Board of County Commissioners, the Zoning Enforcement Officer may issue a Watershed Protection Permit authorizing seventy percent (70%) built-upon area for the project so approved. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters, and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

Article XV of the Wilkes County Zoning Ordinance, "WATERSHED PROTECTION," Section 158, "Watershed Protection Permit," subsection (C), is re-written to read as follows:

- (3) Prior to issuance of a Watershed Protection Permit, the Zoning Enforcement Officer may (i) consult with qualified personnel for assistance to determine if the application meets the requirements of this Ordinance, (ii) require the applicant to submit a survey from a professional surveyor or certification from a professional engineer which depicts the proposed project and confirms the precise amount of built-upon area as defined under this Ordinance, and (iii) require that the applicant submit such additional information as may be necessary in order to enable the Zoning Enforcement Officer to determine whether a Watershed Protection Permit may be issued under the provisions of this Ordinance.

Article XV of the Wilkes County Zoning Ordinance, "WATERSHED PROTECTION," Section 158, "Watershed Protection Permit," is hereby amended by adding a subsection (E) thereto, to read as follows:

- (E) In addition to the provisions of subsections (A) through (D) above, the issuance of a Watershed Protection Permit shall be required for an SIA involving 10/70 development under the provisions of subsections (C)(2)(c), (E)(2)(c), or (G)(2)(c) of Section 153 above. Any application for a Watershed Protection Permit which seeks approval for 10/70 development as set forth therein shall so state and shall contain such information as may be required by the Zoning Enforcement Officer in order to assure compliance with the provisions of this Ordinance in determining whether or not to grant the same. No Watershed Protection Permit shall be issued for 10/70 development until an SIA has been approved by the Board of County Commissioners for the proposed project, in accordance with the provisions of subsections (C)(2)(c), (E)(2)(c), or (G)(2)(c), as the case may be. Upon receipt of an application for a Watershed Protection Permit under this subsection (E) and all information which may be required by the Zoning Enforcement Officer in connection therewith, the Zoning Enforcement Officer shall forward the same to the Watershed Review Board for its review and recommendation concerning the proposed SIA. The Watershed

Review Board shall thereafter forward its recommendation to the Board of County Commissioners, which shall make the final determination with respect to the proposed SIA. If the Board of County Commissioners denies the proposed SIA, the application for a Watershed Protection Permit shall likewise be denied by the Zoning Enforcement Officer. If the Board of County Commissioners approves the proposed SIA, the Zoning Enforcement Officer shall thereupon proceed to determine whether the Watershed Protection Permit may be issued under the terms of this Ordinance.

EXCEPT AS SPECIFICALLY AMENDED HEREINABOVE, THE AMENDED WILKES COUNTY WATERSHED PROTECTION ORDINANCE AND ALL OF THE TERMS AND PROVISIONS THEREOF, INCLUDING BUT NOT LIMITED TO THE LOW-DENSITY OPTION FOR DEVELOPMENT, SHALL REMAIN IN FULL FORCE AND EFFECT.

THE EFFECTIVE DATE OF THIS AMENDMENT SHALL BE JULY 7, 1999, THE DATE ON WHICH IT WAS APPROVED BY THE WATER QUALITY COMMITTEE OF THE NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION.

ON MOTION OF Commissioner Joe Woodie, SECONDED BY Vice Chairman Robert Handy, AND UNANIMOUSLY APPROVED, THE FOREGOING AMENDMENT TO THE WILKES COUNTY WATERSHED ORDINANCE WAS READ, APPROVED, AND ADOPTED BY THE BOARD OF COMMISSIONERS OF WILKES COUNTY, IN REGULAR SESSION ASSEMBLED, ON THE 17TH DAY OF AUGUST, 1999.

WILKES COUNTY BOARD OF COMMISSIONERS

Ray Alshar
Chairman, Wilkes County Board of Commissioners

ATTEST:

Alene Faw
Alene Faw, County Clerk

AMENDMENT TO
WATERSHED PROTECTION ORDINANCE
WILKES COUNTY

FILED
WILKES COUNTY NC
06/13/2001 3:26 PM
RICHARD L. WOODRUFF
Register of Deeds
By: Deputy/Asst.

WILKES COUNTY, NORTH CAROLINA

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF WILKES IN REGULAR SESSION ASSEMBLED:

THE AMENDED WILKES COUNTY WATERSHED PROTECTION ORDINANCE, AS ADOPTED BY THE WILKES COUNTY BOARD OF COMMISSIONERS ON SEPTEMBER 16, 1997, AND AS AMENDED BY THE WILKES COUNTY BOARD OF COMMISSIONERS EFFECTIVE JULY 7, 1999, IS FURTHER AMENDED AS FOLLOWS:

Article XV of the Ordinance, "WATERSHED PROTECTION," Section 153, "Watershed Areas Described; Allowed Uses and Restrictions," would be amended as follows:

Subsection (C)(2)(c), as added by that Amendment to the Ordinance which was made effective July 7, 1999, would be re-written as follows:

(C) WS-II Watershed Areas - Balance of Watershed Area (WS-II-BW)

(2) Density and Built-upon Limits:

(c) 10/70 Development -- In addition to the development allowed under (a) and (b) above, new development may occupy ten percent (10%) of the watershed area which is outside the critical area, with seventy percent (70%) built-upon area, when approved as a special intensity allocation (SIA). Allocation of this development privilege shall be made by the Board of County Commissioners on a project-by-project basis following review and recommendation by the Watershed Review Board, as set forth in Section 158 below. The approval of SIA's and 10/70 development as authorized hereunder shall be restricted solely to projects involving nonresidential development (such projects are hereinafter referred to as "10/70 projects"). Upon approval of an SIA for a particular 10/70 project by the Board of County Commissioners, the Zoning Enforcement Officer may issue a Watershed Protection Permit authorizing seventy percent (70%) built-upon area for the 10/70 project so approved. 10/70 projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters, and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total

10/70 project area shall include such area as is designated for the project by the applicant in that application which is filed under Section 158(E) below. Total 10/70 project area may include less than the entire tract on which it is to be situated, but in such event the applicant shall provide sufficient information to allow the Zoning Enforcement Officer to determine the acreage and platted lay-out for the total 10/70 project area.

Subsection (E)(2)(c), as added by that Amendment to the Ordinance which was made effective July 7, 1999, would be re-written as follows:

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

* * *

(2) Density and Built-upon Limits:

* * *

(c) 10/70 Development -- In addition to the development allowed under (a) and (b) above, new development may occupy ten percent (10%) of the watershed area which is outside the critical area, with seventy percent (70%) built-upon area, when approved as a special intensity allocation (SIA). Allocation of this development privilege shall be made by the Board of County Commissioners on a project-by-project basis following review and recommendation by the Watershed Review Board, as set forth in Section 158 below. The approval of SIA's and 10/70 development as authorized hereunder shall be restricted solely to projects involving nonresidential development (such projects are hereinafter referred to as "10/70 projects"). Upon approval of an SIA for a particular 10/70 project by the Board of County Commissioners, the Zoning Enforcement Officer may issue a Watershed Protection Permit authorizing seventy percent (70%) built-upon area for the 10/70 project so approved. 10/70 projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters, and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total 10/70 project area shall include such area as is designated for the project by the applicant in that application which is filed under Section 158(E) below. Total 10/70 project area may include less than the entire tract on which it is to be situated, but in such event the applicant shall provide sufficient information to allow the Zoning Enforcement Officer to determine the acreage and platted lay-out for the total 10/70 project area.

Subsection (G)(2)(c), as added by that Amendment to the Ordinance which was made effective July 7, 1999, would be re-written as follows:

(G) WS-IV Watershed Areas - Balance of Watershed Area (WS-IV-BW)

* * *

(2) Density and Built-upon Limits:

* * *

(c) 10/70 Development -- In addition to the development allowed under (a) and (b) above, new development may occupy ten percent (10%) of the watershed area which is outside the critical area, with seventy percent (70%) built-upon area, when approved as a special intensity allocation (SIA). Allocation of this development privilege shall be made by the Board of County Commissioners on a project-by-project basis following review and recommendation by the Watershed Review Board, as set forth in Section 158 below. The approval of SIA's and 10/70 development as authorized hereunder shall be restricted solely to projects involving nonresidential development (such projects are hereinafter referred to as "10/70 projects"). Upon approval of an SIA for a particular 10/70 project by the Board of County Commissioners, the Zoning Enforcement Officer may issue a Watershed Protection Permit authorizing seventy percent (70%) built-upon area for the 10/70 project so approved. 10/70 projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters, and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total 10/70 project area shall include such area as is designated for the project by the applicant in that application which is filed under Section 158(E) below. Total 10/70 project area may include less than the entire tract on which it is to be situated, but in such event the applicant shall provide sufficient information to allow the Zoning Enforcement Officer to determine the acreage and platted lay-out for the total 10/70 project area.

Article XV of the Ordinance, "WATERSHED PROTECTION," Section 158, "Watershed Protection Permit," would be amended by re-titling Section 158 "Watershed Protection Permit and Special Intensity Allocation" and by amending the text as follows:

Section 158. Watershed Protection Permit and Special Intensity Allocation.

Subsection (B) would be re-written as follows:

(B) Watershed Protection Permit applications shall be filed with the Zoning Enforcement Officer. The application shall include a completed application form and supporting documentation deemed necessary by the Zoning Enforcement Officer, and, in addition to such other information as may be required, shall:

- (1) Specifically identify the tract of land on which the project is to be developed (including 10/70 projects as set forth below), either by reference to an existing deed description or by a survey with a metes and bounds description; and
- (2) Describe all projects on said tract of land or any portion thereof for which Watershed Protection Permits previously have been issued under this Ordinance.

Subsection (C) would be re-written as follows:

- (C) Prior to issuance of a Watershed Protection Permit, the Zoning Enforcement Officer may (i) consult with qualified personnel for assistance to determine if the application meets the requirements of this Ordinance; (ii) require the applicant to submit a survey from a professional surveyor or certification from a professional engineer which depicts the proposed project (including 10/70 projects), depicts the tract of land on which it is to be developed and describes the same by metes and bounds, and confirms the precise amount of built-upon area as defined under this Ordinance; and (iii) require that the applicant submit such additional information as may be necessary in order to enable the Zoning Enforcement Officer to determine whether a Watershed Protection Permit may be issued under the provisions of this Ordinance.

Subsection (D) would be re-written as follows:

- (D) It shall be an express condition of a Watershed Protection Permit issued under this Ordinance, except for those Watershed Protection Permits governed by the provisions of subsection (G) below, that the same shall expire and automatically become void if a Zoning or Building Permit for the use described therein is not obtained by the applicant within twelve (12) months from the date of issuance of the Watershed Protection Permit.

Subsection (E) as added by that Amendment to the Ordinance which was made effective July 7, 1999, would be re-written as follows:

- (E) In addition to the provisions of subsections (A) through (D) above, the issuance of a Watershed Protection Permit shall be required for a special intensity allocation (SIA) involving 10/70 development under the provisions of subsections (C)(2)(c), (E)(2)(c), or (G)(2)(c) of Section 153 above. Any application for a Watershed Protection Permit which seeks approval for 10/70 development as set forth therein shall so state and shall contain such information as may be required by the Zoning Enforcement Officer in order to assure compliance with the provisions of this Ordinance in determining whether or not to grant the same, including but not limited to plans and specifications for the 10/70 project and (where applicable) information relevant to the review criteria under subsection (F) below. No Watershed Protection Permit shall be

issued for 10/70 development until an SIA has been approved by the Board of County Commissioners for the proposed 10/70 project, in accordance with the provisions of subsections (C)(2)(c), (E)(2)(c), or (G)(2)(c), as the case may be. Upon receipt of an application for a Watershed Protection Permit under this subsection (E) and all information which may be required by the Zoning Enforcement Officer in connection therewith, the Zoning Enforcement Officer shall forward the same to the Watershed Review Board for its review and recommendation concerning the proposed SIA. The Watershed Review Board shall review the application and proposed SIA in accordance with subsection (F) below and shall thereafter forward its recommendation to the Board of County Commissioners, which shall make the final determination with respect to the proposed SIA. The Board of Commissioners shall give due consideration to, but shall not be bound by, the recommendation of the Watershed Review Board; provided, however, that in no event may an application for a proposed SIA be approved in violation of the requirements of this Ordinance. If the Board of County Commissioners denies the proposed SIA, the application for a Watershed Protection Permit shall likewise be denied by the Zoning Enforcement Officer. The applicant may in such event redesign the 10/70 project and resubmit the request. If the Board of County Commissioners approves the proposed SIA, the Zoning Enforcement Officer shall thereupon proceed to determine whether the Watershed Protection Permit may be issued under the terms of this Ordinance.

A new subsection (F) would be added to read as follows:

- (F) Approval of an application and proposed SIA for a 10/70 project consisting of a church, school, or fire department shall be in the sound discretion of the Watershed Review Board and the Board of Commissioners. Approval of applications and proposed SIA's for all other 10/70 projects permitted under this Ordinance shall be based on the review criteria set forth below. The review criteria shall be used to encourage applicants to maximize development in 10/70 project areas as well as incorporate measures to improve water quality and aesthetics for the same. The review criteria are as follows:

REVIEW CRITERIA FOR EVALUATING SIA REQUESTS

Criteria	Points
1. Landscaping minimum 8' landscaped area along streetside of property (measured from right-of-way)	40

minimum 8' landscape area along
side of property
(measured from property line) 30

minimum of one landscape space
for every parking space in parking lot 50

Landscaped area must have grass or mulch ground
cover with trees or shrubs planted according to the
following specifications:

evergreen shrubs – 6' spacing; 1.5'
minimum height at planting

evergreen shrubs – 10' spacing; 6'
minimum height at planting

deciduous trees – 20' spacing; 8'
minimum height at planting

2. Permanent Greenway easement granted to County
of Wilkes along perennial streams or other location
as approved by the County of Wilkes Planning
Board (minimum width of 25'); or Dedication of
right-of-way along street side of property for
sidewalks (minimum width of 15') 50
3. Multiple story building development
(excluding basement) 75
4. Building development with parking
located under building 75
5. Undisturbed area of project left in
natural vegetation (trees or woody vegetation)
50% or more left vegetated; or 50
25 – 50% left vegetated 25
6. Erosion control plan approved and implemented 25

7.	Tax based added by project:	
	\$250,000 or less	25
	\$250,000 - \$500,000	50
	\$500,000 - \$1,000,000	75
	\$1,000,000 or more	100
8.	Employment added by project	
	1 - 10	25
	11 - 25	50
	26 - 75	75
	76 or more	100
9.	Planned unit development (PUD) approved by Wilkes County Planning Board	50
10.	Drainage	
	Surface drainage rather than curb and gutter; or	40
	Drainage through vegetated buffer or grass swale	60
11.	Percentage of built-upon area:	
	36% - 50%	25
	51% - 60%	50
	61% - 70%	75
	TOTAL POSSIBLE POINTS	780

A proposed 10/70 project which is required to be reviewed under the review criteria as set forth above shall not be approved by the Watershed Review Board or by the Board of County Commissioners unless said project has a point total thereunder of at least 300.

A new subsection (G) would be added to read as follows:

(G) It shall be an express condition of a Watershed Protection Permit issued pursuant to this Ordinance for a 10/70 project, other than a 10/70 project for a church, school, or fire department, that construction of said project be commenced no later than twelve (12) months from the date the Watershed Protection Permit is issued. For purposes of this subsection (G), construction of a project is commenced as of the date the

Permit holder begins digging footings for the structure which is to be built. Upon failure of the Permit holder to comply with this provision, the Permit shall expire and automatically become void; provided, however, that the Permit shall not expire during the pendency of any request for a variance from the requirements hereof made pursuant to Section 162 of this Ordinance if said variance request is made prior to the expiration of the above stated period of twelve (12) months. In the event a timely made request for variance is denied, the Permit shall expire automatically at the end of the time period for appealing such denial, or, if a timely appeal is filed, upon final adjudication of the appeal affirming the denial. A request for variance under this subsection (G) shall be treated as a minor variance within the meaning of Section 41 of the Wilkes County Zoning Ordinance.

A new subsection (H) would be added to read as follows:

- (H) It shall be an express condition of a Watershed Protection Permit issued pursuant to this Ordinance for a 10/70 project, other than a 10/70 project for a church, school, or fire department, that all construction, placement of impervious surface, and other improvements be completed within two (2) years of the date of issuance of said Permit, in accordance with the plans and specifications upon which approval of the SIA was based, and in compliance with those review criteria for which points were awarded under subsection (F) above. Violation of this condition shall subject the holder of the Permit to such penalties as may be authorized by law or by the provisions of this Ordinance; provided, that the holder of the Permit shall not be deemed to be in violation of this subsection (G) during the pendency of any request for a variance from the requirements hereof made pursuant to Section 162 of this Ordinance if said variance request is made prior to the expiration of the above stated period of two (2) years. In the event a timely made request for variance is denied, the holder of the Permit shall be deemed to be in violation upon the expiration of the time period for appealing such denial, or, if a timely appeal is filed, upon final adjudication of the appeal affirming the denial. A request for variance under this subsection (G) shall be treated as a minor variance within the meaning of Section 41 of the Wilkes County Zoning Ordinance.

A new subsection (I) would be added to read as follows:

- (I) The holder of a Watershed Protection Permit issued for a 10/70 project shall immediately notify the Zoning Enforcement Officer in the event said holder, prior to fully complying with the time limits for commencement and completion of construction of the project under subsections (G) and (H) above, or, in the case of a church, school, or fire department, prior to completing construction of the project, files a petition in bankruptcy with any United States Bankruptcy Court, becomes subject to an order of receivership, is named as a respondent or is otherwise involved in a foreclosure proceeding of any kind concerning the property, is named as a party

in an action under which title to the property is in issue, has a change in ownership, or otherwise is involved in or affected by any development which materially affects the holder's ability to proceed with the project.

Article XV of the Ordinance, "WATERSHED PROTECTION," would be amended by adding a new Section 163, "Identification of Tract and Project," to read as follows:

Section 163. Identification of Tract and Project.

Upon the submission and approval of an application for a Watershed Protection Permit under Section 158 above which has identified a project (including a 10/70 project) and the tract of land on which it is to be developed, said tract shall at all times thereafter for purposes of this Ordinance be the tract to which the applicable built-upon percentage limits of Section 153, or the seventy percent (70%) built-upon limit in the case of a 10/70 project, shall apply. Additional projects (including a 10/70 project if one has not been previously approved for said tract) shall be permitted thereon upon the proper issuance of a Watershed Protection Permit, but in no event shall total development as defined in this Ordinance exceed that percentage of said tract as permitted under Section 153, or, in the case of a 10/70 project, seventy percent (70%) of said tract. The provisions of this Section 163 shall apply without regard to whether said tract or any portion thereof, or any interest in the same, is conveyed by written instrument or operation of law to any other person following the identification of said tract in an application for a Watershed Protection Permit duly approved hereunder.

Article XV of the Ordinance, "WATERSHED PROTECTION," would be amended by adding a new Section 164, "Transferability of Permits," to read as follows:

Section 164. Transferability of Permits.

A Watershed Protection Permit issued pursuant to Section 158 above, and a Watershed Protection Occupancy Permit issued pursuant to Section 159 above, shall be transferable by the holder thereof to any other person; provided, however, that such transfer shall not affect the requirements of Sections 158 or 159 with respect to said Permit, nor shall such transfer affect any condition under which the Permit was issued, including the running or tolling of applicable time limits under subsections (G) or (H) of Section 158.

Article XV of the Ordinance, "WATERSHED PROTECTION," would be amended by adding a new Section 165, "Civil Penalty," to read as follows:

Section 165. Civil Penalty.

In addition to, and not in lieu of, the criminal penalties and other remedies provided by law or by this Ordinance for a violation hereof, a violation of any of the following provisions may also subject the offender to a civil penalty of up to One Thousand Dollars (\$1,000.00) for each such violation:

- (A) Erecting, moving, enlarging, or structurally altering a building or built-upon area, or changing the use of any building or land, without first obtaining a Watershed Protection Permit as required under Section 158 of this Ordinance.
- (B) Occupying or using a building or structure which has been erected, moved, or structurally altered without first obtaining a Watershed Protection Occupancy Permit as required under Section 159 of this Ordinance.
- (C) Violating any condition of a Watershed Protection Permit imposed in connection with a 10/70 project under the provisions of Section 158(H) of this Ordinance.

For a continuing violation, each day's violation shall be deemed to be a separate offense; provided, however, that a continuing violation under subsection (C) shall not extend beyond the date of revocation of a Watershed Protection Permit pursuant to Section 166 below. The Zoning Enforcement Officer shall be authorized to issue a citation to such person, giving notice of the violation. Citations so issued may be delivered in person or mailed by registered or certified mail to the person charged if such person cannot otherwise be readily located. The civil penalty set forth in the citation must be paid within seven (7) days of receipt of the citation, or by the due date set forth therein, whichever shall occur later, and shall be paid to the Wilkes County Planning Department. The Planning Department shall forward all such penalties collected to the Finance Department for the County of Wilkes for application as by law provided. If the person charged fails to pay the civil penalty within the time prescribed, a criminal summons shall be issued against such person charging a misdemeanor violation of this Ordinance and, upon conviction, such person shall in addition to the penalties prescribed for said misdemeanor violation of this Ordinance be punished as the Court prescribes for failure to pay the civil penalty imposed hereby. The County of Wilkes may also institute a civil action in the Small Claims, District, or Superior Court of Wilkes County for the collection of any unpaid civil penalties under this Section 165.

Article XV of the Ordinance, "WATERSHED PROTECTION," would be amended by adding a new Section 166, "Revocation of Watershed Protection Permit; Status of SIA," to read as follows:

Section 166. Revocation of Watershed Protection Permits; Status of SIA.

- (A) In the case of a Watershed Protection Permit issued for a 10/70 project, the Zoning Enforcement Officer may, after due notice to the holder of the Permit and an opportunity to be heard, revoke said Permit upon a finding by the Zoning Enforcement Officer that the holder has violated any condition of the Permit imposed pursuant to Section 158(H) of this Ordinance.

- (B) Following revocation of a Watershed Protection Permit under subsection (A) above, the SIA which was previously approved on the 10/70 project for which the Permit was issued shall continue in effect unless modified or rescinded by the Board of County Commissioners. The procedure for modification or rescission shall be the same as for approval.

EXCEPT AS SPECIFICALLY AMENDED HEREINABOVE, THE AMENDED WILKES COUNTY WATERSHED PROTECTION ORDINANCE (TOGETHER WITH THAT AMENDMENT EFFECTIVE JULY 7, 1999) AND ALL OF THE TERMS AND PROVISIONS THEREOF, INCLUDING BUT NOT LIMITED TO THE LOW-DENSITY OPTION FOR DEVELOPMENT, SHALL REMAIN IN FULL FORCE AND EFFECT.

THE EFFECTIVE DATE OF THIS AMENDMENT SHALL BE MAY 29, 2001, THE DATE ON WHICH IT WAS APPROVED BY THE WATER QUALITY COMMITTEE OF THE NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION.

ON MOTION OF Vice Chairman Arnold Lakey, SECONDED BY Commissioner Jerry Sidden, AND UNANIMOUSLY APPROVED, THE FOREGOING AMENDMENT TO THE WILKES COUNTY WATERSHED ORDINANCE WAS READ, APPROVED, AND ADOPTED BY THE BOARD OF COMMISSIONERS OF WILKES COUNTY, IN REGULAR SESSION ASSEMBLED, ON THE 5TH OF JUNE, 2001.

WILKES COUNTY BOARD OF COMMISSIONERS



Charles Sink, Chairman,
Wilkes County Board of Commissioners

ATTEST:



Alene Faw, County Clerk

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FILED
WILKES COUNTY NC
12/03/2003 4:21 PM
RICHARD L. WOODRUFF
Register Of Deeds
By: BC Deputy/Asst.

**AMENDMENT TO
WATERSHED PROTECTION ORDINANCE
WILKES COUNTY**

WILKES COUNTY, NORTH CAROLINA

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF WILKES IN REGULAR SESSION ASSEMBLED:

THE AMENDED WILKES COUNTY WATERSHED PROTECTION ORDINANCE, AS ADOPTED BY THE WILKES COUNTY BOARD OF COMMISSIONERS ON SEPTEMBER 16, 1997, AS AMENDED BY THE WILKES COUNTY BOARD OF COMMISSIONERS EFFECTIVE JULY 7, 1999, AS AMENDED BY THE WILKES COUNTY BOARD OF COMMISSIONERS EFFECTIVE MAY 29, 2001, AS AMENDED BY THE WILKES COUNTY BOARD OF COMMISSIONERS ON APRIL 15, 2003, AND AS AMENDED BY THE WILKES COUNTY BOARD OF COMMISSIONERS ON MAY 20, 2003, IS FURTHER AMENDED AS FOLLOWS:

Article XV of the Ordinance, "WATERSHED PROTECTION," Section 155, "Buffer Areas Required," is hereby amended as follows:

Subsection (A) is re-written as follows:

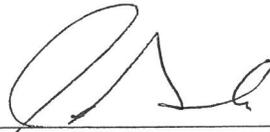
- (A) A minimum thirty (30) foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies; provided, however, that in the case of 10/70 development under this Ordinance, such vegetative buffer shall be a minimum of one hundred (100) feet. Desirable artificial stream bank or shoreline stabilization is permitted.

EXCEPT AS SPECIFICALLY AMENDED HEREINABOVE, THE AMENDED WILKES COUNTY WATERSHED PROTECTION ORDINANCE (TOGETHER WITH THOSE AMENDMENTS EFFECTIVE JULY 7, 1999, MAY 29, 2001, APRIL 15, 2003, AND MAY 20, 2003), AND ALL OF THE TERMS AND PROVISIONS THEREOF, INCLUDING BUT NOT LIMITED TO THE LOW-DENSITY OPTION FOR DEVELOPMENT, SHALL REMAIN IN FULL FORCE AND EFFECT.

THE EFFECTIVE DATE OF THIS AMENDMENT SHALL BE THE DATE OF ITS ADOPTION BY THE WILKES COUNTY BOARD OF COMMISSIONERS. SAID AMENDMENT IS ADOPTED PURSUANT TO THOSE PROVISIONS FOR 10/70 DEVELOPMENT UNDER THE WILKES COUNTY WATERSHED PROTECTION ORDINANCE AS PREVIOUSLY APPROVED BY THE WATER QUALITY COMMITTEE OF THE NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION. FURTHER APPROVAL OF THIS AMENDMENT BY THE WATER QUALITY COMMITTEE IS NOT REQUIRED.

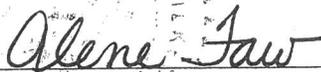
ON MOTION OF Vice Chairman Arnold Lakey , SECONDED BY Commissioner Zach Henderson , AND UNANIMOUSLY APPROVED, THE FOREGOING AMENDMENT TO THE WILKES COUNTY WATERSHED ORDINANCE WAS READ, APPROVED, AND ADOPTED BY THE BOARD OF COMMISSIONERS OF WILKES COUNTY, IN REGULAR SESSION ASSEMBLED, ON THE 18th OF November , 2003.

WILKES COUNTY BOARD OF COMMISSIONERS



Charles Sink, Chairman,
Wilkes County Board of Commissioners

ATTEST:



Alene Faw, County Clerk

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FILED
WILKES COUNTY NC
09/24/2003 3:47 PM
RICHARD L. WOODRUFF
Register Of Deeds
By: JRM Deputy/Asst.

**AMENDMENT TO
WATERSHED PROTECTION ORDINANCE
WILKES COUNTY**

WILKES COUNTY, NORTH CAROLINA

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF WILKES IN REGULAR SESSION ASSEMBLED:

THE AMENDED WILKES COUNTY WATERSHED PROTECTION ORDINANCE, AS ADOPTED BY THE WILKES COUNTY BOARD OF COMMISSIONERS ON SEPTEMBER 16, 1997, AS AMENDED BY THE WILKES COUNTY BOARD OF COMMISSIONERS EFFECTIVE JULY 7, 1999, AS AMENDED BY THE WILKES COUNTY BOARD OF COMMISSIONERS EFFECTIVE MAY 29, 2001, AND AS AMENDED BY THE WILKES COUNTY BOARD OF COMMISSIONERS ON APRIL 15, 2003, IS FURTHER AMENDED AS FOLLOWS:

Article XV of the Ordinance, "WATERSHED PROTECTION," Section 153, "Watershed Areas Described; Allowed Uses and Restrictions," is hereby amended as follows:

The introductory paragraph of subsection (G) is re-written as follows:

- (G) WS-IV Watershed Areas – Protected Area (WS-IV-PA). In order to address a moderate to high land use intensity pattern, single family residential uses shall develop at a maximum of two (2) dwelling units per acre. All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area.

Subsection (G)(2)(a) is re-written as follows:

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

EXCEPT AS SPECIFICALLY AMENDED HEREINABOVE, THE AMENDED WILKES COUNTY WATERSHED PROTECTION ORDINANCE (TOGETHER WITH THOSE AMENDMENTS EFFECTIVE JULY 7, 1999, MAY 29, 2001, AND APRIL 15, 2003), AND ALL OF THE TERMS AND PROVISIONS THEREOF, INCLUDING BUT NOT LIMITED TO THE LOW-DENSITY OPTION FOR DEVELOPMENT, SHALL REMAIN IN FULL FORCE AND EFFECT.

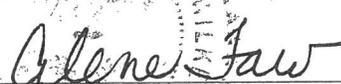
THE EFFECTIVE DATE OF THIS AMENDMENT SHALL BE September 10, 2003, THE DATE ON WHICH IT WAS APPROVED BY THE WATER QUALITY COMMITTEE OF THE NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION.

ON MOTION OF Commissioner Zach Henderson, SECONDED BY Vice Chairman Arnold Lakey, AND UNANIMOUSLY APPROVED, THE FOREGOING AMENDMENT TO THE WILKES COUNTY WATERSHED ORDINANCE WAS READ, APPROVED, AND ADOPTED BY THE BOARD OF COMMISSIONERS OF WILKES COUNTY, IN REGULAR SESSION ASSEMBLED, ON THE 20th OF May, 2003.

WILKES COUNTY BOARD OF COMMISSIONERS



Charles Sink, Chairman,
Wilkes County Board of Commissioners

ATTEST:


Alene Faw, County Clerk

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09/24/2003 3:48 PM
RICHARD L. WOODRUFF
Register Of Deeds
By: *[Signature]* Deputy/Asst

**AMENDMENT TO
WATERSHED PROTECTION ORDINANCE
WILKES COUNTY**

WILKES COUNTY, NORTH CAROLINA

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF WILKES IN REGULAR SESSION ASSEMBLED:

THE AMENDED WILKES COUNTY WATERSHED PROTECTION ORDINANCE, AS ADOPTED BY THE WILKES COUNTY BOARD OF COMMISSIONERS ON SEPTEMBER 16, 1997, AS AMENDED BY THE WILKES COUNTY BOARD OF COMMISSIONERS EFFECTIVE JULY 7, 1999, AND AS AMENDED BY THE WILKES COUNTY BOARD OF COMMISSIONERS EFFECTIVE MAY 29, 2001, IS FURTHER AMENDED AS FOLLOWS:

SECTION 1.7 of the Ordinance, "DEFINITIONS AND WORD INTERPRETATION," is hereby amended as follows:

THE INTRODUCTORY PARAGRAPH OF ARTICLE IV OF THE WILKES COUNTY ZONING ORDINANCE IS HEREBY AMENDED TO READ AS FOLLOWS:

For the purpose of interpreting this Ordinance and the Amended Wilkes County Watershed Protection Ordinance, certain words or terms are herein defined. The following words shall, for the purpose of this Ordinance and the Amended Wilkes County Watershed Protection Ordinance, have the meaning herein indicated; provided, that where identical or substantially similar words or terms are defined in both this Ordinance and the Amended Wilkes County Watershed Protection Ordinance, the definition set forth in this Ordinance shall govern with respect to matters arising hereunder and the definition set forth in the Amended Wilkes County Watershed Protection Ordinance shall govern with respect to matters arising thereunder.

* * *

ARTICLE IV, SECTION 41 OF THE WILKES COUNTY ZONING ORDINANCE IS HEREBY AMENDED BY ADDING THE FOLLOWING DEFINITION:

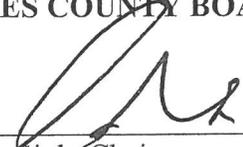
Dwelling Unit. A building, manufactured home, or modular home providing complete independent living facilities for a single family, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Two or more manufactured homes may be combined to form a dwelling unit if they are joined together in one living unit for the use of a single family, are enclosed under a single roof as approved by the Wilkes County Building Inspections Department, are underpinned in compliance with the North Carolina State Building Code, and have the appearance of a dwelling unit serving a single family.

EXCEPT AS SPECIFICALLY AMENDED HEREINABOVE, THE AMENDED WILKES COUNTY WATERSHED PROTECTION ORDINANCE (TOGETHER WITH THAT AMENDMENT EFFECTIVE JULY 7, 1999, AND THAT AMENDMENT EFFECTIVE MAY 29, 2001) AND ALL OF THE TERMS AND PROVISIONS THEREOF, INCLUDING BUT NOT LIMITED TO THE LOW-DENSITY OPTION FOR DEVELOPMENT, SHALL REMAIN IN FULL FORCE AND EFFECT.

THE EFFECTIVE DATE OF THIS AMENDMENT SHALL BE September 10, 2003, THE DATE ON WHICH IT WAS APPROVED BY THE WATER QUALITY COMMITTEE OF THE NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION.

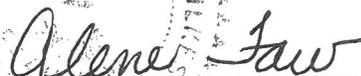
ON MOTION OF Commissioner Luther Parks, SECONDED BY Vice Chairman Arnold Lakey, AND UNANIMOUSLY APPROVED, THE FOREGOING AMENDMENT TO THE WILKES COUNTY WATERSHED ORDINANCE WAS READ, APPROVED, AND ADOPTED BY THE BOARD OF COMMISSIONERS OF WILKES COUNTY, IN REGULAR SESSION ASSEMBLED, ON THE 15th OF April, 2003.

WILKES COUNTY BOARD OF COMMISSIONERS



Charles Sink, Chairman,
Wilkes County Board of Commissioners

ATTEST:



Alene Fawcett, County Clerk