

# ROBESON COUNTY WATER SUPPLY WATERSHED MANAGEMENT AND PROTECTION ORDINANCE

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**ARTICLE I**  
**AUTHORITY AND GENERAL REGULATIONS**

**SECTION 1 AUTHORITY AND PURPOSE**

**1.1 AUTHORITY AND ENACTMENT**

Pursuant to the authority provided in the North Carolina General Statutes, Chapter 153A-121 et. Seq. (General ordinance-making power), and **NC GEN STAT 160D-926** (Water Supply Watershed Protection), whereby the General Assembly of the State of North Carolina delegated the responsibility for or directed local government units to adopt ordinances and regulations designed to promote the public health, safety, and general welfare of their citizenry, The Robeson County Board of Commissioners, does hereby ordain to enact into law the following articles as the Water Supply Watershed Protection Plan of Robeson County, North Carolina. (Hereinafter referred to as “Plan” or “WPP)

**1.2 JURISDICTION**

The provisions of this ordinance shall apply within the areas designated as a Public Water Supply Watershed by the N.C. Environmental Management Commission and shall be defined and established on the map entitled, “Watershed Protection Map of Robeson 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 the Robeson County Zoning Ordinance. This plan shall be permanently kept on file in the office of the Clerk to the Robeson County Board of Commissioners and the office of the Robeson County Community Development Administrator. The Robeson County Community Development Administrator shall also serve as the Robeson County Watershed Administrator.

**1.3 EXCEPTIONS TO APPLICABILITY**

- A.** Nothing contained here shall repeal, modify, or amend a 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 Robeson County, North Carolina; however, the adoption of this ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect at the time of adoption of this ordinance that may be construed to impair or reduce the effectiveness of this ordinance or to conflict with any of its provisions.

- B. It is not intended that these regulations interfere with any easement, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provision of these regulations shall control.
- C. Existing development, as defined in this ordinance, is not subject to the requirements of this ordinance. Expansions to structures classified as existing development must meet the requirements of this ordinance; however, the built upon area of the existing development is not required to be included in the density calculations.
- D. If a nonconforming lot of record is not contiguous to any other lot owned by this same party, the lot of record shall not be subject to the development restrictions of this ordinance if it is developed for single family residential purposes.

#### **1.4 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.

#### **1.5 CRIMINAL PENALTIES**

Any person violating any provisions of this WPP shall be guilty of a misdemeanor and upon conviction, shall be punished in accordance with NC GEN STAT 14-4. The maximum fine for each offense shall not exceed five hundred dollars (\$500.00). Each day that the violation continues shall constitute a separate offense.

#### **1.6 REMEDIES**

- A. If any subdivision, development and or/ land use is found to be in violation of the WPP, the Robeson County Board of Commissioners may in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount no to exceed the maximum amount allowed by law, action or proceeding to restrain, correct, or abate the violation; to prevent any illegal act, conduct, business, or use in or about the premises. In addition to the N.C. Environmental Management Commission may assess civil penalties in accordance with NC GEN STAT 143-215.6(A). Each day that the violation continues shall constitute a separate offense.

- B. If the Community Development Administrator/Watershed Administrator finds that any of the provisions of the WPP are being violated, The Community Development Administrator 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 the WPP to ensure compliance with or to prevent violation of its provisions. If ruling of the Community Development Administrator/Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board.

**1.7 EFFECTIVE DATE**

This Ordinance shall repeal and replace the June 6, 1998 Ordinance in its entirety.

Duly adopted by the Board of Commissioners of County of Robeson, North Carolina, this the 16<sup>th</sup> day of November, 2020.

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Robeson County Board of Commissioners  
Lance Herndon, Chairman

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Tammy S. Freeman, Clerk

**ARTICLE II**  
**SUBDIVISION REGULATIONS**

**2.1 SUBDIVISION PROVISIONS**

The Robeson County Subdivision Ordinance shall be complied with in all respects and in addition to the provisions of that Ordinance the Robeson County Planning Zoning Board that no plat is approved without being in compliance with the provisions of this article.

**2.2 SUBDIVISION APPLICATION AND REVIEW PROCDEDURES**

- A. The Watershed Review Board shall be composed of the membership of the Robeson County Planning & Zoning Board and the Watershed Review Board shall sit simultaneously for purposes of review compliance with the Robeson Subdivision Ordinance, Robeson County Zoning Ordinance and the Robeson County Watershed Protection Plan. The Watershed Review Board shall hereinafter be referred to as the WRB or the Robeson County Planning & Zoning Board.
  
- B. The Community Development Administrator/Watershed Administrator shall review all proposed subdivisions to determine whether or not the property is located within the designated Public Water Supply Watershed. Subdivisions that are not within the designated watershed area shall not be subject to the provisions of this Ordinance and may be recorded provided the Community Development Administrator/Watershed Administrator initials the vicinity map. In addition, subdivisions within a WS-IV watershed are subject to the provisions of this Plan only when an erosion and sedimentation plan is required under the provisions of State law, or approved local program. Subdivisions within the designated watershed area shall comply with the provisions of this Article and all other state and local requirements that may apply.
  
- C. The Community Development Administrator/Watershed Administrator shall review the completed application and submit recommendations to the WRB/Robeson County Planning & Zoning Board shall either approve, approve conditionally or disapprove each application by a majority vote of the members present and voting. First consideration of the application shall be at the next regularly scheduled meeting of the Board after the application is submitted, The Board shall take final action within forty-five (45) days of its first consideration. The Community Development Administrator/Watershed Administrator or the Board may provide public agencies an opportunity to review and make recommendations. However, failure of the agencies to submit their comments and recommendations shall not delay the Boards action within the prescribed time limit. Said public agencies may include, but are not limited to the following:

- D.
1. The district highway engineer with regard to proposed streets and highways.
  2. The director of the Health Department with regard to proposed private water system or sewer systems normally approved by the Health Department
  3. The state Division of Environmental Management with regard to proposed sewer systems normally approved by the Division, engineered storm water management in general.
  4. Any other agency or official designated by the Watershed Administrator or Watershed Review Board.
- E. If the WRB/Robeson County Planning & Zoning Board approves the application, such approval shall be indicated on both copies of the plat by the following certificate and signed by the Chairperson or other authorized member of the WRB/Robeson County Planning & Zoning Board.

**Certificate of Approval for Recording**

I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved by the Watershed Review Board for recording in the Register of Deeds office.

\_\_\_\_\_

Date

\_\_\_\_\_

Chairman, Watershed Review Board

**NOTICE:** This property is located within a Public Water Supply Watershed- development restrictions may apply.

- F. If the WRB/Robeson County Planning and Zoning Board disapproves conditionally the application, the reason for such action shall be stated in writing for the application and entered in the minutes. The subdivider may make changes and submit a revised plan which shall constitute a separate request for the purpose of review.
- G. All subdivision plats shall comply with the requirements of the Robeson County Subdivision Ordinance.
- H. The Subdivider shall provide the Community Development Administrator Watershed Administrator with evidence the plat has been recorded with the Register of Deeds within five (5) working days of its being recorded.

## **2.3 SUBDIVISION STANDARDS AND REQUIRED IMPROVEMENTS**

- A.** All lots shall provide adequate building space in accordance with the development standards contained in **Section 2.5** those which are smaller than the minimum required for residential lots shall be identified on the plat as “NOT FOR RESIDENTIAL PURPOSES”
- B.** 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.** Storm Water Drainage Facilities: The application shall be accompanied by the description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts storm water runoff away from surface waters and incorporates best management practices to minimize water quality impacts.
- D.** Erosion and Sedimentation Control: The applicant shall, where required, be accompanied by a written statement that a Sedimentation and Erosion Control Plan has been submitted to and approved by the Robeson County Soil Conservation Office.
- E.** Roads constructed in critical areas and watershed buffer areas. Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed so to minimize their impact on water quality.

## **2.4 CONSTRUCTION PROCEDURES**

- A.** No construction or installation of improvements shall commence in a proposed subdivision until a subdivision plat has been approved by the WRB/Robeson County Planning & Zoning Board.
- B.** No building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this Plan until all requirements of this Plan have been met. The Subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Watershed Administrator to provide for adequate inspection.

## **2.5 PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS**

Any person who, being the owner or agent of the owner of any land located within the jurisdiction of Robeson County, thereafter subdivides his land in violation of this Plan or transfers or sells land by reference to, exhibition of or any other use of a plat showing a subdivision of land before the plat has been properly approved under this Plan and recorded in the Office or the Register of Deeds, shall be guilty of a misdemeanor.



**ARTICLE III**  
**DEVELOPMENT REGULATIONS**

**3.1 ESTABLISHMENT OF WATERSHED AREAS**

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

For purposes of this Plan, Robeson County is hereby divided into the following areas, as appropriate.

WS-IV-CA (Critical Area)

WS-IV-PA (Protected Area)

**3.2 ROBESON COUNTY WATERSHED AREAS**

- A. WS-IV Watershed Areas – Critical Area (WS-IV-CA). Only new development activities that require an erosion/sedimentation control plan under State law or approved local program are required to meet the provisions of this ordinance when located in the WS-IV watershed. In order to address a moderate to high land use intensity pattern, single-family residential uses are allowed at a maximum of two (2) dwelling units per acre. All other residential and nonresidential development shall be allowed twenty-four percent (24%) 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 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent version U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.
- B. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11. 6101-0209).
- C. Residential

- D. Non-residential development, excluding:
  - 1. Landfills, and
  - 2. Sites for land application of 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-basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project by project basis. For the purpose of calculating the built-upon area total project area shall include total acreage in the tract on which the project is to be developed.
- B. WS-IV Watershed Areas-Protected-Areas (WA-IV-PA). Only new development activities that require an erosion/sedimentation control plan under State law or approved local Government program are required to meet the provisions of this ordinance when located in a WS-IV watershed. In order to accommodate moderate to high land used intensity, single-family residential development uses shall develop at 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. A maximum of three (3) dwellings units per acre or thirty-six (36%) percent built-upon area is allowed without a curb and gutter street system.
  - 1. Uses Allowed:
    - A. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
    - B. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-0209).
    - 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-Up 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 Resident and Non-Residential development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For projects without a curb and gutter street system., development shall not exceed thirty-six percent (36%) built-upon area on a project by project basic. 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.

### 3.3 CLUSTER DEVELOPMENT

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

- A. Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in **Section 3.2**. 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 incorporated property owner's association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

### 3.4 BUFFER AREAS REQUIRED

- A. A minimum one hundred (100) foot vegetative buffer is required for all new development activities that exceed the low-density option; otherwise, a minimum thirty (30) foot vegetative buffer for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted.

- B. No new development is allowed in the buffer except for water dependent structure and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of storm water Best Management Practices.

### 3.5 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 centerline thereof, such lines shall be construed to be said boundaries.
- B. Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the County as evidence that one or more properties along these boundaries do not lie within the watershed area.
- C. Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map
- D. Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- E. Where other uncertainty exists, The Watershed Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

### 3.6 APPLICATION OF REGULATIONS

- A. No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.
- B. No area required for the purpose of complying with the provision of this ordinance shall be included in the area required for another building.
- C. Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in Section 3.6.

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

### 3.7 EXISTING DEVELOPMENT

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

- A. **Vacant Lots.** This category consists of vacant lots for which plats or deed have been recorded in the office of the Register of Deeds of Robeson County. Lot may be used for any of the uses allowed in the watershed area in which it is located, provided the following:
  - 1. Where the lot area is below the minimum specified in this ordinance the Watershed Administrator is authorized to issue a watershed protection permit.
  - 2. Notwithstanding the forgoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create one of more lots that meet the standards of this ordinance, or if this is impossible, reduce to the extent possible the nonconformity of the lots.
- B. **Occupied Lots.** The category consists of lots occupied for residential purposes at the time of the adoption of this ordinance. These lots may continue to be used provided that wherever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this ordinance, and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed area in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.
- C. **Use of Land.** This category consists of uses existing at the time of adoption of this ordinance where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such cases may be continued except as follows:
  - 1. When such use of land has been changed to allow use, it shall not thereafter revert to any prohibited use.
  - 2. Such use of land shall be changed only to an allowed use

3. When such use ceases for a period of at least one (1) year, it shall not be reestablished.

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

1. Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.
2. The total amount of space devoted to built-upon area may be increased unless storm water control that equals or exceeds the previous development is provided.

### **3.8 WATERSHED PROTECTION PERMIT**

- A. Except where a single-family residence is constructed on a lot deeded prior to the effective date of this ordinance, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall there be any change in the Protection Permit that has been issued by the Community Development Administrator/Watershed Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this ordinance.
- B. Watershed Protection Permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form and supporting documentation deemed necessary by the Watershed Administrator.
- C. Prior to issuance of a Watershed Protection Permit, the Community Development Administrator/Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.
- D. A Watershed Protection Plan shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

### **3.9 BUILDING PERMIT REQUIRED**

Except for a single-family residence constructed on a lot deeded prior to the effective date of this ordinance, no permit required under the North Carolina State Building Code shall be issued for any activity for which a Watershed Protection Permit is required until that permit has been issued.

### 3.10 WATERSHED PROTECTION OCCUPANCY PERMIT

- A. The Community Development Administrator/Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.
- B. A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) days after the erection or structural alterations of the building.
- C. When only a change in use of land or existing building occurs, the Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met coincident with the Watershed Protection Permit.
- D. If the Watershed Protection Occupancy Permit is denied, the Watershed Administrator shall notify the applicant in writing stating the reasons for denial.
- E. No building or structure which has been erected, moved, or structurally altered may be occupied until the Watershed Administrator has approved and issued a Watershed Protection Occupancy Permit.

**ARTICLE IV**  
**PUBLIC HEALTH REGULATIONS**

**4.1 PUBLIC HEALTH REGULATIONS**

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorptions, inadequate sedimentation and erosions 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 storm water runoff, or any other situation found to pose a threat to water quality.

**4.2 ABATEMENT**

- A. The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
- B. The Watershed Administrator shall report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations.
- C. Where the Watershed Review Board finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.



**ARTICLE V**  
**ADMINISTRATION, ENFORCEMENT AND APPEALS**

**5.1 ADMINISTRATION, ENFORCEMENT AND APPEALS**

Statutory authority for this section is derived from N.C. General Statutes 160D-926. Alternate statutory authority for this article may be derived from NC General Statutes 160D-926.

**5.2 WATERSHED ADMINISTRATOR AND DUTIES THEROF**

The Robeson County Board of Commissioners shall appoint a Watershed Administrator, who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this Ordinance as follows:

- A. The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.
- B. The Watershed Administrator shall serve as clerk to the Watershed Review Board.
- C. The Watershed Administrator shall keep records of all amendments to the local Watershed Protection Plan and shall provide copies of all amendments upon adoption to the Supervisor of the Classification and Standards Group, Water quality Section, Division of Water Quality.
- D. The Watershed Administrator is granted authority to administrate and enforce the provisions of this Plan, exercising in the fulfillment of their responsibility the full police power of Robeson County. The Watershed Administrator, or their duly authorized agent, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon them by this Plan.
- E. The Watershed Administrator shall keep a record of variances and shall submit this record for each calendar year to the Division of Water Quality on or before January 1<sup>st</sup> of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

### **5.3 APPEAL FROM THE WATERSHED ADMINISTRATOR**

- A.** Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.
- B.** An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty (3) days from the date of the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reason for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the board all papers constituting the record upon which the action appealed from was taken.
- 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 their, that by reason of facts stated in the certificate, a stay would in their opinion cause imminent peril to life or property. In such case, proceeding 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.

### **5.4 CHANGES AND AMENDMENTS TO THE WATERSHED PROTECTION PLAN**

- A.** The Robeson County Board of Commissioners may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.
- B.** No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. If no recommendation has been received from the Watershed Review Board within forty-five (45) days after submission of the proposal to the Chairman of the Watershed Review Board, the Robeson County Board of Commissioners may proceed as though a favorable report has been received.
- C.** Under no circumstances shall the Robeson County Board of Commissioners adopt such amendments, supplements or changes that would cause this Plan to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the N.C. Division of Environmental Management, N.C. Division of Environmental Health, and the N.C. Division of Community Assistance.

## **5.5 PUBLIC NOTICE AND HEARING REQUIRED**

Before adopting or amending this Plan, The Robeson County Board of Commissioners shall hold a legislative hearing on the proposed changes. A notice of the legislative hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date of the hearing.

## **5.6 ESTABLISHMENT OF WATERSHED REVIEW BOARD**

The Robeson County Planning Board shall sit as the Robeson County Watershed Review Board.

## **5.7 RULES OF CONDUCT FOR MEMBERS**

Members of the Board may be removed by the Robeson County Board of Commissioners for cause, including violation of the rules stated below:

- A. Faithful attendance at meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite to continuing membership on the Board.
- B. No Board member shall take part in the hearing, consideration, or determination of any case in which the Board member is personally or financially interested. A Board member shall have a "financial interest" in a case where a decision in the case will: 1- cause their spouse to experience a direct financial benefit or loss, or 2- will cause a business in which their spouse owns a 10 per cent or greater interest, or 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 where it involves a member of their immediate family (i.e., parent, spouse, or child).
- C. No Board member shall discuss any case with any parties thereto prior to the legislative hearing on that case or any other member of the Board, its Secretary or Clerk prior to the hearing.
- D. Members of the Board shall not express individual opinions on the proper judgement of any case prior to its determination on that case.
- E. Members of the Board shall give notice to the chairman at least forty-eight (48) hours prior to the hearing of any potential conflict of interest which he has in a particular case before the Board.
- F. No Board member shall vote on any matter that decides an application or appeal unless he had attended the legislative hearing on that application or appeal.

## 5.8 POWERS AND DUTIES OF THE WATERSHED REVIEW BOARD

- A. Administrative Review. Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this Plan.
- B. Variance. The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this Plan as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Plan will result in practical difficulties or unnecessary hardship, so that the spirit of this Plan shall be observed, public safety and welfare secured, and substantial justice done. In addition, Robeson County shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.
- C. Public Health (See Article 4)
- D. Approval of All Development Greater than the Low-Density Option (See Article 7)

## 5.9 PROCEDURES TO OBTAIN A VARIANCE

- A. Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:
  - 1. A site plan, drawn to scale of at least one (1) inch to forty (40) feet indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
  - 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 Watershed Review Board in considering the application.
  - 3. The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed. Such notice shall include a description. Governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

- B.** Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reason on which they are based:
- 1.** There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Plan. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five followings 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 Watershed Review 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 be possible the reasonable use of this 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 unknowingly violates the ordinance, or who purchases the property after the effective dates 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.
- C.** In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.
- D.** The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

- E. A variance issued in accordance with this section shall be considered a Watershed Protection Permit and shall expire if a building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.
  
- F. If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:
  - 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.

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

- 1. If the commission concludes from the preliminary record that the variance qualifies as a major variance and (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 EMC may approve the variance as proposed or approve the proposed variance with conditions and stipulations. The EMC shall prepare an EMC 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 Commission 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 may 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.

3. Subdivision Approval
4. Public Health
5. Approval of all development greater than the low-density option.

#### **5.10 APPEALS FROM THE WATERSHED REVIEW BOARD**

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

## ARTICLE VI DEFINITIONS

### 6.1 GENERAL DEFINITIONS

**Agricultural Use:** The use of water for stock watering, irrigations, and other farm purposes.

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

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

**Buffer:** An area of natural or planted vegetation through which storm water 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 animal or property. The connection of two (2) buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a room, shall not be deemed to make them one building.

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

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

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



**Critical Area:** The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half (1/2) 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 (1/2) mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half (1/2) mile.

**Customary Home Occupations:** Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over twenty-five (25%) of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair, truck, delivery truck, etc.

**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 a leachate is treated on site and discharged to a receiving stream requires a National Pollution Discharge Elimination System (NPDES) Permit

**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 are a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on a least one (1) of the following criteria:

1. Substantial expenditures of resources (time, labor money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
2. Having an outstanding valid building permit as authorized by NC GEN STAT. 160D-108, or
3. Having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by the NC GEN STAT 160D-108.

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

**Family:** One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a family or families.

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

**Industrial Development:** Any non-residential development that requires an NPDES permit for an industrial discharge and or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling.

**Landfill:** A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes/ For the purpose of this ordinance this term does not include composting facilities.

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

**Major Variance:** A variance from the minimum statewide water supply watershed protection rules that results in any one or more of the following:

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

**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 management requirement under the low-density option.

**Non-Conforming Lot of Record:** A lot described by a plat or a deed that was recorded prior to the effective date of this ordinance (or its amendments that does not meet the minimum lot size or other development requirements of this ordinance)

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

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

**Protected Area:** The area adjoining and upstream of the critical area of WS-IV watershed. The boundaries of the protected area are defined as within five (5) miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within then (10) miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

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

**Residuals:** Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the Environmental Management Commission.

**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

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

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

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

**Subdivision:** All divisions of a tract or parcel of land into two or more lots, building sites, or other division for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included with this definition nor be subject to the regulations authorized by this ordinance:

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance.
2. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
3. The public acquisition by purchase by strips of land for the widening or opening of streets;

4. The division of a tract in single ownership who entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this ordinance; or
5. The division of a tract into plots or lots used as a cemetery.

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

**Variance:** A permission to develop or use property granted by the Watershed Review Board relaxing or waving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this ordinance.

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

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

**Watershed Administrator:** An official or designated person of Robeson County responsible for administration and enforcement of this ordinance.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. Robeson County may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate finds, issue an injunction and order requiring the offending party to comply with this Plan.

Notwithstanding the above, nothing contained herein shall repeal modify or amend the applicable provisions of the Robeson County Subdivision Ordinance.

## 6.2 WORD INTERPRETATIONS

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

Words in the present tense include the future tense.

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

The word "person" includes a firm association, corporation, trust, and company as well as an individual.

The word "structure" shall include the word "building."

The word "lot" shall include the words, "plot," "parcel." or "tract."

The words "shall" and "will" are always mandatory and not merely directory.

**ARTICLE VII**  
**HIGH DENSITY REQUIREMENTS**

**7.1 HIGH DENSITY DEVELOPMENT STANDARDS**

- A. The Watershed Review Board may approve high density development proposals consistent with the following standards:
  - 1. WS-IV Watershed Areas-Critical Area (WS-IV-CA). Where new development exceeds either two dwellings per acre or twenty-four percent (24%) built-upon area, engineered stormwater controls shall be used to control runoff from the first inch of rainfall, and development shall not exceed fifty percent (50%) built-upon area.
  - 2. WS-IV Watershed Areas- Balance of Watershed (WS-IV-BW). Where new development requires a Sedimentation/Erosion Control Plan and exceeds either two dwelling units per acre or twenty-four percent (24%) built-upon area, engineered stormwater controls shall be used to control runoff from the first inch of rainfall, and development shall not exceed seventy percent (70%) built-upon area.
- B. High density development shall meet the requirements of this ordinance.

**7.2 HIGH DENSITY DEVELOPMENT PERMIT APPLICATION**

- A. High Density Development Permit shall be required for new development exceeding the requirements of the low-density option.
- B. Application for a High-Density Development Permit shall be addressed and submitted to the Board of Adjustment through the Community Development Administrator. Application for a High-Density Development Permit shall be made on the proper form and shall include the following information:
  - 1. A completed High-Density Development Permit Application signed by the owner of the property. The signature of the consulting engineer or other agent will be accepted on the application only if accompanied by a letter of authorization;
  - 2. Two reproducible copies of the development plan within the drainage basin including the applicable information listed in Appendix A; Application Forms, Subdivision Plat Checklist and detailed information concerning built-upon area;

3. Two reproducible copies of the plans and specifications of the stormwater control structure consistent with Section 7.3;
  4. When required by law, written verification that a soil erosion and sedimentation control plan has been approved by the appropriate state or local agency;
  5. Permit Application Fees consistent with Section 7.6.
- C. Prior to taking final action on any application, the Watershed Administrator may provide an opportunity to public agencies affected by the development proposal to review and make recommendations on the application. However, failure of the agencies to submit their comments and recommendations shall not delay the Board's actions with the prescribed time limit.
- D. The Watershed Review Board shall either approve or disapprove each application for a High-Density Development Permit based on the applicable criteria contained in this ordinance. First consideration of a completed application shall be at the next regularly scheduled meeting of the Board following its receipt. The Board shall take action on the application at its first consideration or within sixty-five (65) days of its first consideration.
1. If the Board approves the application based on its findings, such approval shall be indicated on the permit and both copies of the site plan and both copies of the plans and specifications of the stormwater control structure. A High-Density Development Permit shall be issued after the applicant post a performance bond or other acceptable security as required in Section 7.4 and executes and Operation and Maintenance Agreement as required in Section 7.5 A copy of the permit and one copy of each set of plans shall be kept on file at the Community Development Administrator's office. The original permit and one copy of each set of plans shall be delivered to the applicant either by personal services or register mail, return receipt requested.
  2. If the Board disapproves the application based on its findings, the reasons for such action shall be stated in the minutes of the Board and presented to the applicant in writing either by personal service or registered mail, return receipt requested. The applicant may make changes and submit a revised plan. All revisions shall be submitted, reviewed and acted upon by the Board pursuant to the procedures of this section.

- E. In addition to any other requirements provided by this ordinance, the Board may designate additional permit conditions and requirements to assure that the use will be harmonious with the area which it is proposed to be located and with the spirit of this ordinance. All additional conditions shall be entered in the minutes of the meeting at which the permit is granted, on all plans and on the permit certificate. All conditions so imposed shall run with the land and shall be binding upon the applicant and the applicant's heirs, successors or assigns during the continuation of the permitted use.
- F. The Board shall issue a written ruling and make copies available at the office of the Watershed Administrator and the County Clerk.

**7.3 ENGINEERED STORMWATER CONTROLS: SPECIFIC REQUIREMENTS TO EXERCISE THE HIGH-DENSITY OPTION**

- A. All stormwater controls structures shall be designed by a North Carolina registered professional engineer. Other stormwater systems shall be designed by a North Carolina registered professional with qualifications for the type of system required; these registered professionals are defined as professional engineers and land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in General Statutes 89(C)-3(7).
- B. All stormwater controls shall use wet detention ponds as a primary treatment system unless alternative stormwater management measures, as outlined in **Section 7.3(C)** are used. Approved stormwater control devices shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Water Quality. Specific requirements for these systems shall be in accordance with the following design criteria:
  - 1. Permanent pool storage designed for total suspended solid removal of eighty-five (85%) and storage runoff from a one (1) inch rainfall from the area above the permanent pool;
  - 2. Designed runoff storage volume shall be above the permanent pool;
  - 3. The discharge rate from these systems following the one (1) inch rainfall shall be such that the run off does not draw down to the permanent pool level in less than two (2) days and that the pond is drawn down to the permanent pool level within at least five (5) days;
  - 4. Permanent pool with a mean depth of three (3) feet;
  - 5. The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features; and



6. Vegetative filters shall be constructed for the overflow and discharge of all stormwater wet detention ponds and shall be at least thirty (30) feet in length. The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow-through the filter for a ten (10) year, twenty-four (24) hour storm with a ten (10) year, one (1) hour intensity with a slope of five percent (5%) or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics.
- C. Alternative stormwater management systems, consisting of one treatment option or a combination of treatment options, may be used. The design criteria for approval shall be eight-five percent (85%) average annual removal of total suspended solids. Also, the discharge rate shall meet one (1) of the following criteria:
    1. The discharge rate following the one (1) inch design storm shall be such that the runoff draws down to the pre-storm design stage within five (5) days but not less than two (2) days; or
    2. The post development peak discharge rate shall equal the predevelopment peak discharge rate for the one (1) year, twenty-four (24) hour storm.
  - D. In addition to the vegetative filters required in Section 7.3(B)(6), all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within thirty (30) days after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement described in Section 7.4(C).
  - E. A description of the area containing the stormwater control structure shall be prepared and filed consistent with Section 7.7 and as a (A) and (B), as a separate deed with the Robeson County Register of Deeds along with any easements necessary for general access to the stormwater control structure. The deeded area shall include the stormwater control structure, vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs and reconstruction.
  - F. Qualifying areas of the stormwater control structure may be considered pervious when computing built-upon area. However, if the structure is used to compute the percentage built-upon area for one site it shall not be used to compute the built-upon area for any other site or area.

#### 7.4 POSTING OF FINANCIAL SECURITY REQUIRED

- A. All new stormwater control structures shall be conditioned on the posting of adequate financial assurance for the purpose of maintenance, repairs or reconstruction necessary for adequate performance of the stormwater control structure.
- B. Financial assurance shall be in the form of the following:
  - 1. Security Performance Bond or other security. The permit applicant shall obtain adequate security as set forth herein in the form of: (1) a performance bond from a surety bonding company authorized to do business in North Carolina; (2) an irrevocable letter of credit; or (3) other instrument readily convertible into cash at face value payable to Robeson County or placed in escrow with a financial institution designated as an official depository of Robeson County. Adequate security shall mean a bond or other instrument in an amount equal to 1.25 times the total cost of the stormwater control structure, as estimated by the applicant and approved by the Watershed Review Board. The total cost of the stormwater control structure shall include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and grading; excavation, fill, etc. The cost shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization; or
  - 2. Operation and maintenance financial security deposit equal to eighty percent (80%) of total construction cost.
- C. Consistent with Section 7.2, the permit applicant shall enter into a binding Operation and Maintenance Agreement between Robeson County and all interests in the development. Said Agreement shall require the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the operation and management plan or manual provided by the developer. The Operation and Maintenance Agreement shall be filed with the Robeson County Register of Deeds by the applicant within five (5) working days of approval.
- D. Default/failure to complete. Upon default of the permit applicant to complete and/or maintain the stormwater control structure as spelled out in the performance bond or other security, the Board may obtain and use all or any portion of the funds necessary to complete the improvements based on an engineering estimate. The Board shall return any funds not spent in completing the improvements to the owning entity.

- E. Default under the cash security. Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the Operations and Maintenance Agreement, the Board shall obtain and use all or any portion of the cash security to make the necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after exhausting all other reasonable remedies seeking the owning entity to comply with the terms and conditions of the Operations and Maintenance Agreement. The Board shall not return any of the deposition cash funds.

## 7.5 MAINTENANCE AND UPKEEP

- A. An operation and maintenance plan or manual shall be provided by the developer for each stormwater control structure, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken and, consistent with the Operation and Maintenance Agreement, who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a stormwater control structure to design specifications if a failure occurs.
- B. Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the control structure is diminished or threatened, or to the extent of interfacing with any easement or access to the stormwater control structure.
- C. Except for general landscaping and grounds management, the owning entity shall notify the Community Development Administrator prior to any repair to any repair or reconstruction of the stormwater control structure. All improvements shall be made consistent with the approved plans and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the Community Development Administrator shall inspect the completed improvements and shall inform the owning entity of any required additions, changes or modifications and of the time period to complete said improvements. The Community Development Administrator may consult with an engineer designated by the Watershed Review Board.
- D. Amendments to the plans and specifications of the stormwater control structure and/or the operation and maintenance plan or manual shall be approved by the Watershed Review Board. Proposed changes shall be prepared by a North Carolina registered professional engineer and submitted to the review by the Community Development Administrator prior to consideration by the Watershed Review Board.
  - 1. If the Watershed Review Board approves the changes, the owning entity of the stormwater controls structure shall file sealed copies of the revisions with the Offices of the Community Development Administrator.

2. If the Watershed Review Board disapproves the changes, the proposal may be revised and resubmitted to the Watershed Review Board as a new proposal. IF the proposal has not been already reviewed, it shall be returned to the applicant.
- E. If the Watershed Review Board finds that the operation and maintenance plan or manual is inadequate for any reason, the Board shall notify the owning entity of any required changes and shall prepare the file copies of the revised agreement with the Robeson County Register of Deeds, the Office of the Community Development Administrator and the owning entity.

## **7.6 APPLICATION AND INSPECTION FEES**

- A. Processing and inspections fees shall be submitted in the form of a check or money order made payable to Robeson County. Applications shall be returned if not accompanied by the required fee.
- B. A permit and inspection fee schedule, as approved by the Board of County Commissioners shall be posted in the Office of the Community Development Administrator.
- C. Inspection fees shall be valid for sixty (60) days. An inspection fee shall be required when improvements are made to the stormwater control structure consistent with Section 7.5(C), except in the case when a similar fee has been paid within the last sixty (60) days.

## **7.7 INSPECTIONS AND RELEASE OF THE PERFORMANCE BOND**

- A. The stormwater control structure shall be inspected by the Community Development Administrator, after the owning entity notifies the Community Development Administrator that all work has been completed. At this inspection, the owning entity shall provide:
  1. The sign deed, related easements and survey plat for the stormwater control structure ready for filing with the Robeson County Register of Deeds.
  2. A certification sealed by and engineer stating that the stormwater control structure is complete and consistent with the approved plan and specifications
- B. The Community Development Administrator shall present the materials submitted by the developer and the inspection report and recommendations to the Watershed Review Board at its next regularly scheduled meeting.

1. If the Board approves the inspection report and accepts the certification, deed and easements, the Board shall file the deed and easements with the Robeson County Register of Deeds, release up to seventy-five percent (75%) of the value of the performance bond or other security and issued a Watershed Protection Occupancy Permit for the stormwater control structure, consistent with **Section 3.10**.
  2. If deficiencies are found, the Board shall direct the improvements and inspections be made and/or documents corrected and resubmitted to the Watershed Review Board.
- C. No sooner than one (1) year after the filing date of the deed, easement and maintenance agreement, the developer may petition the Watershed Review Board to release the remaining value of the performance bond or other security. Upon receipt of said petition, the Community Development Administrator shall inspect the stormwater control structure to determine whether the controls are performing as designed and intended. The Community Development Administrator shall present the petition, inspection report and recommendations to the Watershed Review Board.
1. If the Board approves the report and accepts the petition, the developer shall deposit with the Community Development Administrator a cash amount equal to that described in **Section 7.4(B)(2)** after which the Watershed Review Board shall release the performance bond or other security.
  2. If the Board does not accept the report and reject the petition, the Board shall provide the developer with instruction to correct any deficiencies and all steps necessary for the release of the performance bond or other security.
- D. A Watershed Protection Occupancy Permit shall not be issued for many buildings within the permitted development until the Watershed Review Board has approved the stormwater control structure, as provided in **Section 7.7(B)**.
- E. All stormwater control structures shall be inspected at least on an annual basis to determine whether the controls are performing as designed and intended. Records of inspection shall be maintained on forms approved or supplied by the North Carolina Division of Water Quality. Annual inspections shall begin within one year of filing date of the deed for the stormwater control structure.

- F. In the event the Community Development Administrator discovers the need for corrective action or improvements, the Community Development Administrator shall notify the owning entity of the needed improvement and the date to be completed. All improvements shall be made consistent with the plans and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the Community Development Administrator shall inspect and approve the completed improvements. The Community Development Administrator may consult with an engineer or landscape architect (to the extent the General Statutes, Chapter 89A, allow) designated by the Watershed Review Board.
- G. Appeals of any order, requirement, decision or determination made by the Community Development Administrator may be made to and decided by the Watershed Review Board with **Section 5.3.**

## **7.8 ENFORCEMENT OF VIOLATIONS**

- A. If any subdivision development and/or land use is found to be in violation of this ordinance, the Community Development Administrator may, in addition to all other remedies available at law or in equity, issue a civil citation to the offender that: 1) a violation has occurred, that the penalty for said violation is one hundred fifty dollars \$150.00 per day for each and every day that the violation continues: and 2) that if the penalty is not paid within seventy-two (72) hours of the notice, that a civil proceeding in the nature of a debt will be initiated in a court of the appropriate jurisdiction against the offender. Each and every day's violation shall constitute a separate offense.
- B. The Community Development Director shall be authorized to institute any action at law as provided by General Statutes 160A-175(C), (D), &(E), 160A-389 [N.C. GEN. STAT. 153A-123], and/or 7A-245 [and N.C. GEN STAT 14-4].

## **7.9 DELEGATION OF AUTHORITY TO COMMUNITY DEVELOPMENT ADMINSTRATOR**

The Robeson County Board of Commissioners may authorize the Community Development Administrator to act on behalf of the Board. The requirements may be applied to the Watershed Review Board.