

ARTICLE 19

WATERSHED PROTECTION

SECTION 1: GENERAL PROVISIONS

19.1 Title

This Article shall be officially known as “The Rutherfordton Watershed Protection Ordinance”, but it may also be referred to as “The Stormwater Ordinance.” It may be furthermore referred to herein as “this Article.”

19.2 Purpose and Authority

The purpose of this Article is to protect, maintain and enhance the public health, safety, environment and general welfare by incorporating the applicable requirements of the State of North Carolina and United States Army Corps of Engineers rules establishing minimum requirements and procedures to control the adverse effects of issues related to increased *stormwater runoff* and nonpoint and point source pollution, *buffer* protection, and illicit discharges into municipal stormwater systems. It has been determined that proper management of construction-related and post-*Development stormwater runoff*, illicit discharges, and *buffer* protection will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources. This Article applies to all properties within the Town of Rutherfordton and its extraterritorial jurisdiction, regardless of whether the property is currently being “developed” or not.

The Town Council of the Town of Rutherfordton is authorized to adopt this Article pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; North Carolina General Statutes §143-214.5 (Watershed Protection) and §143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2004-163; Chapter §160A, §§ 174, 185; as well as Chapter §113A, Article 4 (Sedimentation Pollution Control); Article 21, Part 6 (Floodway Regulation); Chapter §160D (Local Planning and Development Regulation.

19.3 Findings

It is hereby determined that:

19.3-1 *Development* and *Re-Development* alter the hydrologic response of local *watersheds* and increase *stormwater runoff* rates and volumes, flooding, soil erosion, *stream* channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

19.3-2 These changes in *stormwater runoff* contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and

19.3-3 These effects can be managed and minimized by applying proper design and well-planned controls to manage *stormwater runoff* from *Development* sites.

19.3-4 Therefore, the Town of Rutherfordton Town Council adopts the aforementioned water quality and quantity regulations to meet the requirements of state and federal law regarding control of *stormwater runoff* and discharge.

19.4 Watershed Regulations

19.4-1 General. Beginning with and subsequent to its effective date, this Section shall be applicable to all properties in the jurisdiction of the Town of Rutherfordton lying within a designated WS-IV Watershed, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to Subsection 19-4.2 of this Section, Exemptions. Properties need not be “under *development*” to be subject to the standards of this Article.

19.4-2 Exemptions. The following are exempt from the requirements of this Section. The exemption shall not be construed to permit uses prohibited in the underlying zoning district, or otherwise prohibited by this Ordinance.

- (A) Lots of record of less than twenty thousand (20,000) square feet existing on October 1, 1993.
- (B) The construction or modification of one single-family dwelling and its accessory structures on a zone lot provided it is located outside *Watershed Critical Area* (WCA).
- (C) The construction of one two-family dwelling and its accessory structures(s) on a zone lot provided a sedimentation and erosion control plan is not required and provided it is located outside *Watershed Critical Area* (WCA).
- (D) Replacement of existing *Built-Up Area* (BUA) on a lot developed with a like or lesser amount of new BUA, at the same location, or at a different location on the same zone lot if the *Planning, Zoning & Subdivision Administrator* has determined that equal or better water quality will result.
- (E) Exemption to the Plan Submission Requirements of this Article:

The placement of small accessory buildings or structures or small amounts of other *Built-Up Area* on a lot developed with a nonresidential or multifamily use, provided that the total *Built-Up Area* added after the effective date of this Ordinance, is no greater than six hundred (600) square feet and provided that less than one acre of land is disturbed shall be exempt from the plan submission requirements of this Article. This exempted *Built-Up Area* or land disturbance

shall not be placed within a required *surface water buffer*. This exemption shall not apply to a lot with a *Watershed* Development Plan on file with the Planning Department.

- (F) No lot or property shall be exempt from the *buffer* protection requirements of this Ordinance or applicable Federal and/or State of North Carolina requirements.

19.4-3 Map. The provisions of this Section shall apply to any and all land areas designated on the *Official Zoning Map* and lying within a designated Water Supply Watershed.

19.4-4 Limitations on Development within the WS-IV Watershed.

(A.) *Built-Upon Area* within the *Watershed Critical Area* is limited by 15A NCAC 02B.0624 to:

- (1.) Low density development of single-family detached residential development is restricted to a limitation of two (2) dwelling units per acre or 20,000 square foot lot size minimum, excluding roadway right-of-way, or twenty-four percent (24%) *Built-Upon Area*.
- (2.) Low density development of non-residential and all other forms of residential development is restricted to a limitation of twenty-four percent (24%) *Built-Upon Area* of the total land area in a single tract or parcel.
- (3.) High density development option may be permitted when restricted to a limitation of at least twenty-four percent (24%) but not more than fifty percent (50%) *Built-Upon Area* provided the requirements of Item 6 of Rule 15A NCAC 02B.0624 are met.

(B.) *Built-Upon Area* within the *Protected Area* is limited by 15A NCAC 02B.0624 to:

- (1.) Low density development of single-family detached residential development is restricted to a limitation of two (2) dwelling units per acre or 20,000 square foot lot size minimum, excluding roadway right-of-way, or twenty-four percent (24%) *Built-Upon Area* or three (3) dwelling units per acre or thirty-six percent (36%) *Built-Upon Area* without curb and gutter street system.
- (2.) Low density development of non-residential and all other forms of residential development is restricted to a limitation of twenty-four percent (24%) *Built-Upon Area* or thirty-six percent (36%) *Built-Upon Area* without curb and gutter street system within the total land area in a single tract or parcel.
- (3.) High density development option may be permitted within up to ten percent (10%) of the watershed area lying outside the Critical Area within the Town's jurisdiction when restricted to a limitation of at least twenty-four percent (24%) but not more than seventy percent (70%) *Built-Upon Area* provided the requirements of Item 6 of Rule 15A NCAC 02B.0624 are met. High density options may be exercised only by approval of a *Development Agreement* in accordance with Section 7.15 of this Ordinance.

19.5 Additional Standards for Special Situations

19.5-1 Pet Waste.

(A.) Pets At Large Prohibited

It shall be unlawful for the owner of any pet to allow the animal to be off the premises of his owner in the Town of Rutherfordton.

(B.) Restrictions on Pet Waste

- (1.) It shall be unlawful for the owner or custodian of any pet to take it off the owner's own property limits without the means to properly remove and dispose of the pet's feces from any public or private property.
- (2.) It is the responsibility of a pet's owner or custodian to clean up the pet's feces from any public or private property outside of the pet's owner's own property limits. Such property includes, but is not limited to, parks, rights-of-way, paths, and public access areas.
- (3.) "Means to properly remove and dispose of feces" shall consist of having on or near one's person a device such as a plastic bag, or other suitable plastic or paper container, that can be used to clean up and contain pet waste until it can be disposed of in an appropriate container. Such a device must be produced and shown, upon request, to anyone authorized to enforce these ordinances.
- (4.) This provision shall not apply to handicapped persons assisted by trained guide or assistance pets.
- (5.) "Public nuisance" is defined to include "a pet which deposits feces on public property or on private property without the consent of the owner or person in lawful possession of the private property, and the person owning, possessing, harboring or having the care, charge, control or custody of the pet fails to remove the feces so deposited. Provided, however, this definition shall not apply to any pet assisting a handicapped person.

19.5-2 Onsite Wastewater Septic Systems.

(A.) Standards for Operation and Maintenance

Onsite systems for domestic wastewater covered by this Ordinance shall be operated and maintained so as to avoid adverse effects on surface water and groundwater, including eutrophication of surface water and microbial or nitrate contamination of groundwater. Septic tank residuals shall be pumped whenever necessary to assure the proper operation of the system to meet these standards, and the septage shall be reused or disposed of in a manner that does not present significant risks to human health, surface water or groundwater.