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ATTACHMENT 1

utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges;

- N. the susceptibility of water supply and sanitation systems to contamination and unsanitary conditions during and after floods; and
- O. the danger that issuance of the variance will set a precedent for future development in the Resource Conservation District which cumulatively may increase the flood hazard.
- P. the impact of the proposed use on the Town's open spaces and Greenway System.
- Q. the effect to water quality of the Town's actual or potential water supply sources.
- R. the effect on urban wildlife and plant life habitats.
- S. the effect on air and noise buffers which ameliorate the effects of development.
- T. the degree to which drainage and flooding conditions in the vicinity would be improved by the proposed development.

(k) Transfer of Development Rights

The Resource Conservation District is hereby designated as a sending area for purposes of transferring development rights (see Section § 3.9.2, below). Applicants are encouraged to attempt to transfer development rights within an RCD before requesting a variance pursuant to subsection (j).

(l) Warning and Disclaimer of Liability

With respect to flood hazard, the degree of protection required by this Section is considered reasonable for regulatory purposes. Larger floods than anticipated or protected against herein will occur on occasion. This Section does not imply that land outside the Resource Conservation District or uses or variances permitted or allowed within such district will be free from flooding or flood damages. This Section shall not create any liability on the part of the Town, or any officer or employee thereof, for any flood damages that result from reliance on this Section or any administrative decision or process lawfully made thereunder.

3.6.4 Watershed Protection District (WPD)

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(a) Intent

~~***Purpose Statement**—The Watershed Protection District (hereinafter sometimes “WPD”) is intended to be applied to a portion of the New Hope Watershed draining to Jordan Lake in order to ensure long-term water quality of the Jordan Lake Reservoir, to protect possible future sources of drinking water for the Town and surrounding localities, and to control pollution sources affecting water quality.*~~

~~*Within the WPD, ~~W~~atershed protection regulations are applied by the Town of Chapel Hill pursuant to North Carolina General Statutes, Chapter 143, Article 21, Watershed Protection Rules, and implementing regulations of the North Carolina Environmental Management Commission, or its successor statutes and regulations.*~~

In the interpretation and application of this Article, all provisions shall be: (a) considered as minimum requirements, (b) strictly construed in favor of the public interest and community benefit, and (c) deemed neither to limit nor repeal any other powers provided by Town ordinance or State statute.

(ab) Interpretation

~~*In the interpretation and application of this Section, all provisions shall be: (a) considered as minimum requirements, (b) strictly construed in favor of the public interest and community benefit, and (c) deemed neither to limit nor repeal any other powers provided by Town ordinance or State statute.*~~

(b) Establishment of Watershed Protection District

The ~~WPD~~ Watershed Protection District is established for certain lands within the New Hope Watershed as a District that overlays other zoning districts established in Article 3. All development within ~~these the Watershed Protection~~ dDistricts shall comply with the requirements of this Article. In addition, all development within ~~these the Watershed Protection~~ dDistricts shall comply with the requirements of any additional overlay districts and the underlying zoning district.

The area of the District shall be defined generally as ~~follows: an area extending five (5) miles from the normal pool elevation of the Jordan Lake Reservoir, or to the ridge line of the Watershed, whichever is less.~~

District	Area
Watershed Protection District (WPD)	The area extending five (5) miles from the normal pool elevation of the Jordan Lake Reservoir, or to the ridge line of the Watershed, whichever is less.

The specific location of the Watershed Protection District shall be set by ridge lines, identifiable physical features such as highways, or property lines, and shall be shown on the official Zoning Atlas.

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(ec) Applicability Development in the Watershed Protection District

- (1) ~~Generally. This Section shall apply to development and land-disturbing activities within the WPD after the effective date of July 1, 1993, unless exempted by this Section or § 7.6 of this Chapter, permitted by Section 3.6.3.(e), or allowed pursuant to a variance authorized by this Article and approved by the Board of Adjustment.~~
- (2) ~~The expansion, reconstruction, rehabilitation, or renovation of development existing on or before July 1, 1993 is prohibited within the WPD unless:~~
- A. ~~the expansion, reconstruction, rehabilitation, or renovation is permitted by § 3.6.4.(d) and meets the standards of §§ 3.6.4.(e) and 3.6.4.(f); or~~
- B. ~~the expansion, reconstruction, rehabilitation, or renovation is permitted by a variance authorized by this Article and approved by the Board of Adjustment; or~~
- C. ~~the expansion, reconstruction, rehabilitation, or renovation results in no greater than a 10% increase in the allowable impervious surface requirements of § 3.6.4.(e).~~
- (3) ~~Application of the Watershed Protection District to the Redevelopment or Expansion of Development. Redevelopment is allowed within the WPD if the redevelopment activity does not have a net increase of built upon area or provides equal or greater stormwater control than the previous development, except that there are no restrictions on lawfully established single family and two family residential redevelopment.~~
- (4) ~~Expansions to existing development as of July 1, 1993 must meet the requirements of this Section; however, the built upon area of existing development is not required to be included in density and impervious surface area calculations, and there are no restrictions on expansion of lawfully established single family and two family development.~~

This Article shall apply to development and land-disturbing activities within the WPD after the effective date (July 1, 1993) of this Article unless exempted by this Section, or permitted by Section 3.6.4(d), or allowed pursuant to a variance authorized by this Article and approved by the Board of Adjustment.

- (1) Application of Watershed Protection District to Development Existing on July 1, 1993.

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This Article shall not apply to the continued use, operation or maintenance of any development existing, or for which construction had substantially begun, on or before July 1, 1993. In addition, the Article shall not apply to Existing development which has established a vested right under North Carolina zoning law as of July 1, 1993, based on the following criteria:

- A. substantial expenditure of resources (time, labor, money) based on a good faith reliance upon having received a valid approval to proceed with the project;
- B. having an outstanding valid building permit; or
- C. having expended substantial resources (time, labor, money) and having an approved Site Specific Development Plan pursuant to Section 20.4 of the Development Ordinance.

With respect to the requirements of this Article, such development shall not be considered as nonconforming within the meaning of Article 7 of this Chapter.

Multiple lots under single ownership as of July 1, 1993 are not subject to the provisions of this ordinance if vested rights have been established in accordance with North Carolina law. If no vested rights are established, then owners must comply with the provisions of this ordinance. Compliance may include requiring the recombination of lots.

(2) Application to Existing Single Family and Two-Family Lots

This Article shall not apply to single family and two-family development constructed or to be constructed on existing single-family lots created prior to July 1, 1993. This exemption is not applicable to multiple lots under single ownership. For purposes of constructing a single-family or two-family dwelling, lots of record as of July 1, 1993 which are established through a duly approved and properly recorded final plat shall be exempt from the provisions of this ordinance.

(3) Application of the Watershed Protection District to the Redevelopment or Expansion of Development

Redevelopment is allowed under the provisions of this Article if the redevelopment activity does not have a net increase of built-upon area or provides equal or greater stormwater control than the previous development, except that there are no restrictions on lawfully established single family and two-family residential redevelopment.

Expansions to existing development as of July 1, 1993 must meet the requirements of this Article; however, the built-upon area of existing

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development is not required to be included in density and impervious surface area calculations, and there are no restrictions on expansion of lawfully established single family and two-family development.

(dd) Permitted Uses Within the Watershed Protection District

- (1) The requirements or permitted uses indicated in the underlying zoning district, or any applicable overlay zone, apply in the Watershed Protection District, provided the standards of subsection (e) through (f) of this section are met, except as provided in subsection (2) through (4), below. Sections 3.6.4(e) and 3.6.4(g) are met.
- ~~(2) No industries or businesses that produce, store, or use reportable quantities of hazardous materials, as defined by EPA's most recently promulgated Hazardous Substances or Priority Pollutants lists, are allowed in the Water Protection District.~~
- ~~(3) No facilities which recycle or dispose of toxic or hazardous wastes may be located within the Watershed Protection District.~~
- ~~(4) No underground fuel or chemical storage tanks shall be permitted. For the purposes of this section, underground refers to the burial of such tank below the surface of the ground or the covering of them by a berm built above grade. Spill containment measures must be taken for any fuel or chemical tank.~~

(ee) Dimensional Intensity Regulations

(1) Land Use Intensity Regulations

The dimensional intensity regulations are those generally applicable to the underlying zoning district, or any applicable overlay zone, except as modified below.

(2) Additional Intensity Regulations

- ~~(1)~~ In order to prevent an excessive amount of stormwater runoff from damaging the water quality of the reservoirs, it is desirable to encourage require as much infiltration as possible of runoff from hard surfaces onto land areas which can absorb and filter runoff.
- ~~(2)~~ Any development in the Watershed Protection District shall be subject to one of two options, or a combination of options, to control non-point source and stormwater pollution, as described in Table 3.6.4-1. ~~All development shall comply with the requirements of the Resource Conservation District (§ 3.6.3, above).~~

(5)

Table 3.6.4-1: Development Options

Option	Standards
Low Density Option	Development activities shall not exceed two (2) dwelling units per acre (gross land area) or twenty-four percent (24%) built-upon area (impervious surface area) of gross land area.
High Density Option	Development activities which exceed the Low Density Option requirements must control the runoff from the first inch of rainfall. In addition, the built-upon area may not exceed fifty percent (50%) of gross land area. All development under the High Density Option must meet the applicable performance standards of §Section 3.6.4(g).

(f) Stream Buffer Requirements

All development shall comply with the provisions of Section 3.6.3. Resource Conservation District. In addition, the following standards for stream buffers shall apply to all perennial streams in the Watershed Protection District, in the event the Resource Conservation District is less restrictive than the following:

- (1) For developments choosing the Low-Density Option, the required stream buffer is thirty (30) feet.
- (2) For developments choosing the High-Density Option, the required stream buffer is one hundred (100) feet.
- (3) For all developments, no new development is allowed within the stream buffer area: water dependent structures, and public projects such as road crossings and greenways may be allowed where no practicable alternative exists: these activities shall minimize built-upon area, divert runoff away from surface waters and maximize the use of Best Management Practices.

All stream buffers shall be a natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. If clearing, grading, or other land-disturbing activities have occurred and have reduced the effectiveness of the buffer, the buffer shall be replanted in accordance with a Landscape Plan to be approved by the Town Manager.

A stream buffer shall be measured landward from the normal pool elevation of impounded structures and from the bank of each side of perennial streams or rivers.

(g) Performance Standards

(57)

The following standards and criteria shall apply to any portion of a development or, as appropriate, to any land disturbance within the Watershed Protection District.

(1) Hazardous Materials

Any proposed development which uses and stores hazardous materials shall prepare an Emergency Contingency Plan as part of its development application. The Emergency Contingency Plan shall be prepared in accordance with the requirements of the Superfund Amendments and Reauthorization Act (SARA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), or Section 311 of the Clean Water Act, as amended. The Plan shall identify buildings and the locations of points of storage and use of hazardous materials and shall be updated annually. The Plan shall be approved by the Town Manager.

Any container or tank used to store hazardous materials shall be equipped with leak detection devices and shall be double-walled or have other secondary containment features to be approved by the Town Manager.

Points of storage or use of hazardous materials shall be protected by a corrosion-resistant dike, sized to handle the maximum amount of hazardous material to be stored or used.

All floor drains that could collect hazardous materials shall be connected to a corrosion resistant tank or catch basin sized to handle the maximum amount of hazardous material to be stored or used. These floor drains shall not be open to the site's natural drainage system.

(2) Solid Waste Minimization

All development shall submit a plan to be approved by the Town Manager which minimizes solid waste and promotes the recycling of materials in accordance with Section 5.13 of the Development Ordinance.

(3) Ownership, Design, and Maintenance of Engineered Stormwater Controls

Unless otherwise approved, ownership of the engineered stormwater controls shall remain with the property owner or a property owner's association.

Engineered stormwater controls shall be designed and constructed in accordance with standards and specifications established by the Town Manager, and designed to control the first one inch of stormwater using wet detention ponds, or using other methods accepted by the State.

(53)

The property owner shall post a performance bond or other surety instrument satisfactory to the Town Manager, in an amount approved by the Town Manager to assure maintenance, repair, or reconstruction necessary for adequate performance of the engineered stormwater controls.

The establishment of a stormwater utility by the Town of Chapel Hill shall be deemed adequate financial assurance.

(4) Construction Standards

The construction of new roads, bridges, residential and non-residential development shall minimize built-upon area, divert stormwater away from surface water supply waters as much as possible, and employ Best Management Practices to minimize water quality impacts.

(5) Cluster Provisions

The clustering of development in accordance with Section 3.8.8 of the Development Ordinance is encouraged, subject to the following additional standards:

- a) Overall density of the project meets the associated density or stormwater control requirements of Section 3.6.4(e);
- b) Built-upon areas are designed and sited to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow; and
- c) The remainder of the tract shall remain in a vegetated or natural state.

~~(f) Standards within Watershed Protection District~~

~~The following standards and criteria shall apply to any portion of a development or, as appropriate, to any land disturbance within the Watershed Protection District.~~

~~(1) Hazardous Materials~~

~~The use of hazardous materials is prohibited in the WPD (see subsection (d)(2), above.~~

~~(2) Solid Waste Minimization~~

~~All development shall submit a plan to be approved by the Town Manager which minimizes solid waste and promotes the recycling of materials in accordance with § 5.13 of this Chapter.~~