HENDERSON COUNTY WATER SUPPLY WATERSHED REGULATIONS

Why do we have a Water Supply Watershed ordinance?

(1) To manage (by enforcing standards which shall limit the impact from existing or potential sources of contamination through the regulation of the lot sizes and development intensity) the uses of land and structures encompassed by watersheds in order to maintain the high quality of surface water in these watersheds;

(2) Managing (by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment) construction-related and post-development stormwater runoff to minimize damage to public and private property and infrastructure.

(3) To require new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm to reduce flooding, stream bank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitat.

(4) Having a local ordinance better serves our community, by being able to respond in a timely manner, as well as protecting our natural resources.

What lands does this ordinance apply:

Water supply watershed regulations shall apply within any unincorporated areas and also to incorporated areas specifically requesting enforcement by Henderson County upon the consent of the Commissioners, and which are designated as a public water supply watershed by NCEMC and delineated on the map titled "Henderson County Water Supply Watershed Protection Map." as amended. (Town of Mills River requested Henderson County to apply this ordinance to their water supply watershed districts)

When is a water supply watershed permit required?

PERMIT REQUIRED. A permit shall be required for development activities that fall within (a), (b), and (c) below. The permit shall be issued by Henderson County in accordance with the Land Development Code Article VIII Subpart B Water Quality §42-238 through §42-250.

(a) Development and redevelopment that cumulatively disturbs more than one (1) acre and is not part of a larger common plan of development or sale;

(b) Development and redevelopment that disturbs less than one (1) acre when such activities are part of a larger common plan of development or sale, even though multiple separate or distinct activities take place at different time on different schedules; or

(c) Any activity not exempt from permit requirements of Section 404 of the Federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing agriculture and forestry activities).

Note: The built-upon area of the existing development is not required to be included in the density calculations.

PERMIT NOT REQUIRED: The Water Supply Watershed regulations shall not apply to:

(a) land management activities associated with agriculture or silviculture;

(b) activities of the North Carolina Department of Transportation (NCDOT).

(c) linear transportation projects undertaken by an entity other than the NCDOT when:

(i) the project is constructed to NCDOT standards and is in accordance with the NCDOT Stormwater Best Management Practices Toolbox (Version 2, April 2014 Edition).

(ii) upon completion, the project will be conveyed either to the NCDOT or another public entity and will be regulated in accordance with that entity's NPDES MS4 stormwater permit; and

(iii) the project is not part of a common plan of development;

(d) development activities that have already received a Water Supply Watershed Permit where no modification or a minor modification is requested. These activities shall follow their existing permit conditions.

(e) airport facilities that are deemed permitted in accordance with G.S. 143-214.7(c4); and

(f) "redevelopment" – Any land disturbing activity that does not result in a net increase in built-upon area and that provides greater or equal stormwater control to that of the previous development;

WATER SUPPLY WATERSHED OVERLAY DISTRICTS:

Table 2.14 provides sub-district *average lot size density* and *built-upon area* limitations.

Table 2.14. Water Supply Watershed Protection Sub-District Regulations on Density and Built-Upon Area

Sub-District	Low-Density Option		High-Density Option	Natural Drainage & Filtering Bonus
	Average *Lot Size*	Maximum Percent Built-Upon Limits	Maximum Percent Built-Upon Limits	
WP-*WS*-I	Not Applicable	Not Applicable	Not Applicable	Not Applicable
WP-*WS*-II-*CA*	80,000 sq.ft.	6%	24%	Not Applicable
WP-*WS*-II-*BW*	40,000 sq.ft.	12%	30%	Not Applicable
WP-*WS*-III-*CA*	40,000 sq.ft.	12%	30%	Not Applicable
WP-*WS*-III-*BW*	20,000 sq.ft.	24%	50%	Not Applicable
WP-*WS*-IV-*CA*	20,000 sq.ft.	24%	50%	Not Applicable
WP-*WS*-IV-*PA* (Drainage & Filtering Bonus)	20,000 sq.ft. (14,250 sq.ft.)	24% (36%)	70%	Yes (Low-Density Option)

DENSITY THRESHOLDS:

Low-Density vs High-Density?

When is a project considered Low-Density?

(1) When no more than x number of dwelling units per acre (see table 2.14 under average lot size for information) or 24 percent built-upon area for all residential and non-residential development; and

(2) The overall density of a project is at or below the relevant Low-Density threshold.

(3) Within the WP-WS-IV-PA watershed district, a natural drainage and filtering bonus can apply if the project meets the definition. (see table 2.14 for information)

When is a project considered High Density?

Any project that exceeds the thresholds outlined for Low-Density.

STANDARDS FOR LOW DENSITY DEVELOPMENTS:

What is required if a project meets the Low-Density threshold?

Engineered Stormwater Controls are not required.

Average Lot Size. Average lot size shall apply to single-family development and shall be calculated excluding road right of way as per Table 2.14 above.

Maximum Percent Built-Upon Limits: Maximum percent built-upon limits shall apply to multifamily residential and non-residential development as per Table 2.14 above.

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.

Perennial and Intermittent Surface Water Buffers. Thirty (30) feet landward.

What is required if a project meets the High-Density threshold?

All stormwater control measures and structural stormwater Best Management Practices (BMP) required shall be evaluated by the Water Quality Administrator according to policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the North Carolina State Stormwater BMP manual.

STANDARDS FOR HIGH-DENSITY DEVELOPMENTS:

What is required if a project meets the High-Density threshold?

Engineered Stormwater Controls. High-Density projects are required to control and treat stormwater runoff from the first inch of rain over a 24-hour period. Runoff volume drawdown time shall be a minimum of 48 hours, but not more than 120 hours. Stormwater controls shall adhere to the requirements of Stormwater Phase II Post-Construction High-Density regulations.

Maximum percent built-upon limits. New high-density development shall not exceed the prescribed percent built-upon area as per Table 2.14 above.

All structural stormwater treatment systems used to meet these requirements shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids (TSS).

Perennial and Intermittent Surface Water Buffers. One-Hundred (100) feet landward.

General engineering design criteria for all projects shall be in accordance with the North Carolina State Stormwater BMP Manual.

How do we determine if the design is adequate?

Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the North Carolina State Stormwater BMP manual will be presumed to meet the minimum water quality and quantity performance standards of our Water Quality regulations. If an applicant would like to utilize a stormwater BMP not designed and constructed in accordance with the criteria and specifications in the North Carolina State Stormwater BMP manual, the applicant shall have the burden of demonstrating that the practices will satisfy the minimum water quality and quantity performance standards below.

Prohibited Uses:

Table 2.15. Water Supply Watershed Protection Sub-District Prohibited Uses

USE TYPE	WP WS SUB-DISTRICT PR = Prohibited						
	I*	II CA	II BW	III CA	III BW	IV CA	IV PA
Landfills	PR	PR		PR		PR	
Landfills, Discharging	PR		PR				
Landfills, Leachate Discharging	PR				PR		
Nonresidential Development	PR						
Residential Development	PR						
Sites for land application of new residuals or petroleum contaminated soils	PR	PR		PR		PR	
*Note: The only uses permissible in the WP-WS-I district are noted in Table 2.16, Water Supply Watershed Protection Sub-District Permitted Uses with additional standards.							

Permitted Uses with Additional Standards for Permitted uses

Table 2.16. Water Supply Watershed Protection Sub-District Permitted Uses with Additional Standards for Permitted Uses							
USE TYPE	WP WS SUB-DISTRICT P = Permitted, PAS = Permitted with Additional Standards						
	I	II CA	II BW	III CA	III BW	IV CA	IV PA
Agriculture, Subject to provisions of the Food Security Act of 1985 and Food, Agriculture, Conservation and Trade Act of 1990 and all rules and regulations of the Soil and Water Conservation Commission.	PAS	PAS		PAS		PAS	
Agriculture, Subject to provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990.			PAS		PAS		PAS
Power Transmission Lines	P						
Restricted Road Access	P						
Silviculture, Subject to the provisions of the Forest Practices Guidelines Related to Water Quality.	PAS	PAS	PAS	PAS	PAS	PAS	PAS
Water Withdrawal, Treatment and Distribution Facilities	P						

Permit Review Fees are as follows:

New or Renewal Water Supply Watershed Plans
$505.00/project

Redevelopment Water Supply Watershed Plans
$505.00/project