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SECTION 15.1 ENABLING ACT

The North Carolina General Assembly has enacted Water Supply Watershed regulations under pursuant to Chapter 153A-121, Chapter 143, Article 21, of the North Carolina General Statutes, and the Watershed Protection Rules, delegating the responsibility and directing local governmental units to adopt regulations to promote the public health, safety, and general welfare of the its citizenry.

SECTION 15.2 AUTHORITY AND GENERAL REGULATIONS

SECTION 15.2.1 AUTHORITY AND ENACTMENT

Gaston County (herein after known as the "County") hereby exercises its authority, pursuant to Chapter 153A-121, Chapter 143, Article 21 of the North Carolina General Statutes, and the Watershed Protection Rules, to enact Water Supply Watershed Regulations, in accordance with guidelines adopted by the NC Environmental Management Commission (known hereinafter as the "Commission").

SECTION 15.2.2 PURPOSE

The regulations herein are designed to protect the water quality of the streams in the water supply watershed which lie within the jurisdiction of this ordinance. It is the intent of this ordinance to provide regulations which implement the rules adopted by the Commission, pursuant to NC General Statutes 143-214.5.



SECTION 15.2.3 JURISDICTION

- A. Provisions of this Chapter shall apply within the areas designated as a Public Water Supply Watershed by the Commission, which are not being regulated by another local government's Ordinance and shall be defined and established on the map entitled, Watershed Protection Map of Gaston County, North Carolina (herein after designated as "the Watershed Map"), based on the most recent version of the United States Geodetic Survey (USGS) 1:24,000 scale topographic maps, adopted simultaneously herewith, along with all explanatory matter contained thereon and is hereby made a part of this Ordinance. This Ordinance shall be permanently kept on file in the office of the Clerk to the County Board of Commissioners.
- B. Following provisions set forth in Chapter 143-214.5(d), the municipalities of Bessemer City, Cherryville, Dallas, Kings Mountain, High Shoals, Ranlo, and Stanley (herein after known collectively as "Municipalities") and the County have entered into an agreements for the County to enforce the Watershed Water Supply Regulations within the corporate limits and extraterritorial jurisdiction of each municipal unit. Responsibilities for each participant are set forth in the inter-local agreements.
- C. Gaston County hereby adopts those municipal Watershed Protection Maps and amendments there to, as approved by the NC Division of Water Quality (DWQ) for those municipal areas within Gaston County, at such time when the municipality relinquishes their jurisdictional control.

SECTION 15.2.4 EXCEPTIONS TO APPLICABILITY

- A. Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto, except any ordinance which these regulations specifically replace; nor shall any provision of this Chapter amend, modify, or restrict any provisions of the County or Municipalities Code of Ordinances; however, the adoption of this Chapter shall and does amend any and all ordinances, resolutions, and regulations in effect in the County and municipalities at the time of the adoption of this Chapter that may be construed to impair or reduce the effectiveness of this Chapter or to conflict with any of its provisions.
- B. It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.
- C. Existing development, as defined in this chapter, is not subject to the requirements of this chapter. 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 the same party, then that lot of record shall not be subject to the development restrictions of this



ordinance, if it is developed for single-family residential purposes. Any lot or parcel created as part of a family subdivision, after the effective date of this ordinance, shall be exempt from these regulations, if it is developed for one single-family detached residence and if it is exempt from the Gaston County Subdivision Regulations. Any lot or parcel created as part of any other type of subdivision, that is exempt from the Gaston County Subdivision Regulations, shall be subject to the land use requirements (including impervious surface requirements) of this Chapter, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.

SECTION 15.2.5 REPEAL OF EXISTING WATERSHED ORDINANCE

This chapter in part carries forward by re-enactment, some of the Water Supply Watershed Ordinance of the Gaston County, North Carolina (effective date: the January 1, 1994), and it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued there under are preserved and may be enforced. All provisions of the Watershed Ordinance which are not re-enacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any ordinance provisions heretofore in effect, which are now pending in any court of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this chapter, but shall be prosecuted to their finality the same as if this chapter had not been adopted; and any and all violations of the existing Water Supply Watershed Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this ordinance shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

SECTION 15.2.6 CRIMINAL PENALTIES

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

SECTION 15.2.7 REMEDIES

- A. If any subdivision, development and/or land use is found to be in violation of this Chapter, the Gaston 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 of one hundred (\$100.00) per day for each offense; action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the Commission may assess civil penalties in accordance with N.C.G.S. 143-215.6(a). Each day that the violation continues shall constitute a separate offense.



B. If the Watershed Administrator finds that any of the provisions of this chapter are being violated, the Administrator shall notify the person responsible, in writing, of such violation, indicating the nature of the violation, outlining corrective action to be taken to abate the violation, and order said action be taken by a time and date certain. The 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 this ordinance to insure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party(ies) may appeal such ruling to the Watershed Review Board.

SECTION 15.2.8 SEVERABILITY

Should any section or provision of this Chapter be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this Chapter as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

SECTION 15.2.9 EFFECTIVE DATE

This Chapter shall take effect and be in force upon the adoption of this Unified Development Ordinance.

SECTION 15.3 DEFINITIONS

SECTION 15.3.1 GENERAL DEFINITIONS

Agricultural Use:

The use of waters for stock watering, irrigation, and other farm purposes.

Applicant:

Any person, firm or corporation who subdivided or develops any land deemed to be a subdivision as herein defined.

Best Management Practices (BMP):

A structural or non-structural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.



Buffer:

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, animals 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 roof, shall not be deemed to make them one (1) 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 areas (e.g. roads, parking lots, and paths), recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

Cluster Development:

Cluster development means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project, including minimizing storm water runoff impacts. This term includes nonresidential development as well as single-family residential and multifamily developments. For the purpose of this ordinance, planned unit developments and mixed use developments are considered as cluster developments.

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 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 (½) 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 (½) mile.

Customary Home Occupations:

Any use conducted entirely within a dwelling and carried on by the occupants thereof, which the 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) percent 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.

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

1. Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or
2. Having an outstanding valid building permit as authorized by the General Statutes (N.C.G.S.153A-344.1 and N.C.G.S. 160A-385.1); or
3. Having an approved site specific or phased development plan as authorized by the General Statutes (N.C.G.S. 153A-344.1 and N.C.G.S. 160A-385.1).

Existing Lot (Lot of Record):

A lot which is part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds prior to the adoption of the Watershed Regulations on January 1, 1994, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

Family:

One (1) 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 more than five persons, but further provided that domestic servants employed or living on the premises may be on the premises without being counted as a family or families.

Family Subdivision:

Family subdivision means a division of a tract of land: (i) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives as a gift or for nominal consideration, but only if no more than one (1) parcel is conveyed by the grantor from the tract to any one (1) relative; or (ii) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.



Industrial Development:

Any nonresidential 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 finishing, cleaning or developing any product or commodity.

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 chapter 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 watershed protection rules that results in any one (1) or more of the following:

1. The relaxation, by a factor greater than five (5) percent, of any buffer, density or built-upon area requirement under the high density option;
2. The relaxation, by a factor greater than ten (10) percent, of any management requirement under the low density option;
3. Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved storm water management system.

Minor Variance:

A variance from the minimum statewide watershed protection rules that result in a relaxation, by a factor of up to five (5) percent of any buffer, density or built-upon area requirement under the high density option; or that results in a relaxation, by a factor of up to ten (10) percent, of any management requirement under the low density option.

Nonconforming Lot of Record:

A lot described by a plat or a deed that was recorded prior to the effective date of local watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.

Nonresidential 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 watersheds. 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 ridge line of the watershed; or within ten (10) miles upstream and draining to the intake located directly in the stream or river or to the ridge line of the watershed.

Residential Development:

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

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 (1) dwelling unit;
2. Every dwelling unit is on a separate lot; and
3. Where no lot contains more than one (1) 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 location 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:

A "subdivision" shall include all divisions of a tract or parcel of land into two (2) or more lots, building sites, or divisions for the purpose, whether immediate or future, of sale or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided however, that the following shall not be included



within this definition nor be subject to the regulations prescribed by this chapter:

1. The combination or recombination of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots meet or exceed the standards and regulations prescribed by this ordinance.
2. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
3. The public acquisition by purchase of strips of land for the widening or opening of streets.
4. The division of a tract of land in single ownership whose 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 the County as required by this ordinance.
5. The division of land solely among members of the same family, by any method of transfer.
6. 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 environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

Variance:

A permission to develop or use property granted by the Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Commission that is incorporated into this chapter.

Water Dependent Structure:

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



Watershed:

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

Watershed Administrator:

An official or designated person of the County responsible for administration and enforcement of this chapter.

SECTION 15.3.2 WORD INTERPRETATION

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

1. Words in the present tense include the future tense.
2. 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.
3. The word "person" includes a firm, association, corporation, trust, and company as well as an individual.
4. The word "structure" shall include the word "building."
5. The word "lot" shall include the words, "plot," "parcel," or "tract."
6. The word "shall" is always mandatory and not merely directory.
7. The word "will" is always mandatory and not merely directory.

SECTION 15.4 SUBDIVISION REGULATIONS

SECTION 15.4.1 GENERAL PROVISIONS

- A. No subdivision plat of land within the Public Water Supply Watershed shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this Chapter. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this Chapter.



- B. The approval of a plat does not constitute or effect the acceptance by the County, the Municipalities, or the public of the dedication of any street or other ground, easement, right-of-way, public utility line, or other public facility shown on the plat and shall not be construed to do so.
- C. All subdivisions shall conform to the mapping requirements contained in G.S.47-30.
- D. All subdivisions of land within the jurisdiction of County or Municipalities, after the effective date of this ordinance shall require a plat to be prepared, approved, and recorded pursuant to this chapter.

SECTION 15.4.2 SUBDIVISION APPLICATION AND REVIEW PROCEDURES

- A. All proposed subdivisions shall be reviewed prior to recording with the Register of Deeds by submitting a vicinity map to the Watershed Administrator 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 chapter and may be recorded after local subdivision regulations are addressed, provided the Watershed Administrator initials the vicinity map. In addition, subdivisions within a WS-IV watershed are subject to the provisions of this chapter, only, when an erosion control 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 the Chapter, all other State and local requirements that may apply.
- B. Applications for subdivision approval shall be submitted to the County or the respective municipality in accordance with the local subdivision or other applicable ordinance, which has jurisdiction over the property. In addition, an application shall be filed with the Watershed Administrator which shall include a completed Watershed Permit application form, two (2) copies of the plat, and supporting documentation required by the Watershed Administrator or the Watershed Review Board.
- C. The Watershed Administrator shall review the completed application shall either approve, approve conditionally or disapprove each application The Watershed Administrator shall take final action within forty-five (45) days of submission of the application. Subdivision or other land division applications requesting approval shall follow the time lines set forth in the County Subdivision Regulations, Unified Development Ordinance or other applicable ordinances. The Watershed Administrator or Board may provide public agencies (as outlined in the County Subdivision Regulations) an opportunity to review and make recommendations.



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 controls or storm water management in general.
 4. Any other agency or official designated by the Watershed Administrator or Watershed Review Board.
- D. If the Watershed Administrator approves the application, the below certification shall be placed on the copies of the recording plat signed by the Watershed Administrator:

Certificate of Approval for Recording

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

Date

Watershed Administrator

Notice: This property is located with a Public Water Supply Watershed - development restrictions may apply.

- E. If the Watershed Administrator disapproves or approves conditionally the application, reasons for such action shall be stated, in writing, for the applicant and entered in the Board minutes, at its next regular meeting. The applicant may make changes and submit a revised plan which shall constitute a separate request for purpose of review.
- F. All subdivision plats shall comply with all local government regulations and the requirements for recording of the County Register of Deeds.
- G. The Watershed Administrator shall provide notification to the Municipality



having jurisdiction over the subdivision of actions of the Watershed Review Board.

- H. The plat shall be recorded within thirty (30) days of approval, of all appropriate local and state ordinances. The applicant shall provide the Watershed Administrator with evidence the plat has been recorded with the Register of Deeds within five (5) working days.

SECTION 15.4.3 SUBDIVISION STANDARDS AND REQUIRED IMPROVEMENTS

- A. All lots shall provide adequate building space in accordance with the development standards contained in Section 15.5. Lots which are smaller than the minimum required for residential lots may be developed using built-upon area criteria in accordance with Section 15.5. 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.
- B. The application shall be accompanied by a description of the proposed method of providing storm water drainage. The applicant shall provide a drainage system that diverts storm water runoff away from surface waters and incorporates best management practices to minimize water quality impacts.
- C. The application shall, where required, be accompanied by a written statement that a Sedimentation and Erosion Control Plan has been submitted to and approved by the County or the N.C. Division of Land Quality.
- D. Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed to minimize their impact on water quality.

SECTION 15.4.4 CONSTRUCTION PROCEDURES

- A. No construction or installation of improvements shall commence in a proposed subdivision until a subdivision plat has been approved. Approval of the subdivision plat by the Watershed Review Board does not constitute approval of the subdivision approval by the County or respective Municipality. Subdivision approval shall require separate action by the County or respective municipality, under applicable local ordinances.



- B. No building or other permits shall be issued for erection of a structure on any lot not on record at the time of adoption of Watershed Regulations on January 1, 1994 until all requirements of this Chapter have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Watershed Administrator for adequate inspection.

SECTION 15.4.5 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 this Chapter, thereafter subdivided his/her land in violation of this chapter, or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this chapter and recorded in the office of the Gaston County Register of Deeds, shall be guilty of a misdemeanor. 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. The County may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land and the court shall upon appropriate findings, issue an injunction and order requiring the offending party to comply with this ordinance.

SECTION 15.5 WATERSHED AREAS / DEVELOPMENT REGULATIONS

SECTION 15.5.1 ESTABLISHMENT OF WATERSHED AREAS

The purpose of this Section is to list and describe the watershed areas herein adopted. For purposes of this chapter, the County is hereby divided into the following areas, as applies to water supply watersheds:

- Long Creek WS-II-CA (Critical Area), referred to as: LCWSII-CA
- Long Creek WS-II-BW (Balance of Watershed), referred to as: LCWSII-BW
- Indian Creek WS-II-BW (Balance of Watershed), referred to as: ICWSII-BW
- Buffalo Creek WS-III-BW (Balance of Watershed), referred to as: BCWSIII-BW
- Catawba River WS-IV-CA (Critical Area), referred to as: CRWSIV-CA
- Catawba River WS-IV-PA (Protected Area), referred to as: CRWSIV-PA
- Mountain Island Lake WS-IV-CA (Critical Area), referred to as: MILWSIV-CA
- Mountain Island Lake WS-IV-PA (Protected Area), referred to as: MILWSIV-PA
- South Fork River WS-IV-CA (Critical Area), referred to as: SFRWSIV-CA
- South Fork River WS-IV-PA (Protected Area), referred to as: SFRWSIV-PA



SECTION 15.5.2 WATERSHED AREAS DESCRIBED

The provisions listed below apply to the respective watershed districts, as defined on the official Watershed Map. General provisions listed in this chapter apply to all watershed districts.

A. LONG CREEK WS-II-CA (CRITICAL AREA), REFERRED TO AS: LCWSII-CA

In order to maintain a predominately undeveloped land use intensity pattern, single family residential uses shall be allowed at a maximum of one dwelling unit per two acres (1du / 2ac). All other residential and non-residential development shall be allowed at a maximum six (6) percent built-upon area. New residuals application sites and landfills are specifically prohibited.

(High density development using engineered storm water controls is permitted in this district. Ultimate responsibility for the operation and maintenance of these controls will rest with the local government. Please refer to Section 15.9 for a more detailed explanation of this topic.)

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, and the rules and regulations of the Soil and Water Conservation Commission.
 - b. Silviculture, subject to the provisions of the Forest Practices Guidelines related to Water Quality (15 NACA II.6101-.0209).
 - c. Residential development,
 - d, Non-residential development, excluding: (i) landfills and (ii) sites for land application of residuals or petroleum contaminated soils.
2. Density and Built-upon Limits:
 - a. Single Family Residential -- development shall not exceed one dwelling unit per two acres (1du / 2ac) on a project by project basis. No residential lot shall be less than two (2) acres (or 80,000 square feet excluding roadway right of way), except within an approved cluster development.
 - b. All Other Residential development shall not exceed six (6) percent built-upon area on a project by project basis. For the purpose of



calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

**B. LONG CREEK WS-II-BW (BALANCE OF WATERSHED), REFERRED TO AS: LCWSII-BW
INDIAN CREEK WS-II-BW (BALANCE OF WATERSHED), REFERRED TO AS: ICWSII-BW**

In order to maintain predominantly undeveloped land use intensity, single family residential uses shall be allowed at a maximum of one dwelling unit per acre (1 du/ac). All other residential and non-residential development shall be allowed a maximum of twelve (12) percent built-upon area. In addition, new development may occupy ten (10) percent of the watershed area which is outside the critical area, with seventy (70) percent built-upon area when approved as a Special Intensity Allocation (SIA). The Watershed Administrator is authorized to approve SIAs consistent with the provisions of this chapter. Non-discharging landfills and residuals application sites are allowed.

(High density development using engineered storm water control devices is permitted in this district. Ultimate responsibility for the operation and maintenance of these facilities will rest with the local government. Please refer to Section 15.9 for a more detailed explanation of this topic.)

1. Allowed uses:
 - a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
 - b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (NACA II.6101-.0209).
 - c. Residential development.
 - d. Nonresidential development, excluding: 1) discharging landfills;
2. Density and Built-upon Limits:
 - a. Single Family Residential -- development shall not exceed one dwelling unit per acre (1du / ac) on a project by project basis. No residential lot shall be less than one (1) acre (or 40,000 square feet excluding roadway right of way), except within an approved cluster development.
 - b. All other Residential and Non-Residential--development shall not exceed twelve (12) percent built-upon area on a project by project basis except that up to ten (10) percent of the balance of the



watershed may be developed at up to seventy (70) percent built-upon area on a project by project basis. For the purpose calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

C. BUFFALO CREEK WS-III-BW (BALANCE OF WATERSHED), REFERRED TO AS: BCWSIII-BW

In order to maintain low to moderate land use intensity, single family detached uses shall develop at a maximum of two dwelling units per acre (2du / ac). All other residential and non-residential development shall be allowed at a maximum of twenty-four (24) percent built-upon area. In addition, new development and expansions to existing development may occupy ten (10) percent of the balance of the watershed area with up to seventy (70) percent built-upon area when approved as a Special Intensity Allocation (SIA). The Watershed Administrator is authorized to approve SIAs consistent with the provisions of this ordinance. Non-discharging landfills and residuals application sites are allowed.

(High density development using engineered storm water control devices is permitted in this district. Ultimate responsibility for the operation and maintenance of these controls will rest with the local government. Reference Section 15.9.)

1. Allowed Uses:
 - a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
 - b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II.6101-.0209).
 - c. Residential development.
 - d. Nonresidential development, excluding: discharging landfills.
2. Density and Built-Upon Limits:
 - a. Single Family Residential -- development shall not exceed two dwelling units per acre (2du / ac), as defined on a project by project basis. No residential lot shall be less than one-half ($\frac{1}{2}$) acre (or 20,000 square feet excluding roadway right of way), except within an approved cluster development.
 - b. All Other Residential and Non-Residential -- development shall not exceed twenty-four (24) percent built-upon area on a project by



project basis except that up to ten (10) percent of the balance of the watershed may be developed with new development and expansions to existing at up to seventy (70) percent built-upon area on a project by project basis. For the purpose calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

**D. CATAWBA RIVER WS-IV-CA (CRITICAL AREA), REFERRED TO AS: CRWSIV-CA
SOUTH FORK RIVER WS-IV-CA (CRITICAL AREA), REFERRED TO AS: SFRWSIV-CA
MOUNTAIN ISLAND LAKE WS-IV-CA (CRITICAL AREA), REFERRED TO AS: MILWSIV-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 chapter when located in a 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 dwelling units per acre (2du / ac). All other residential and non-residential development shall be allowed at a maximum of twenty-four (24) percent built-upon area. New residuals application sites and landfills are specifically prohibited.

(High density development using engineered storm water control devices is permitted in this district. Ultimate responsibility for the operation and maintenance of these controls will rest with the local government.)

1. Allowed Used:
 - a. Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission.
 - b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II.6101-.0209)
 - c. Residential.
 - d. Nonresidential development, excluding: (i) landfills; and (ii) 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 dwelling units per acre (2du / ac) on a project by project basis. No residential lot shall be less than one-half ($\frac{1}{2}$) acre (or 20,000 square



feet excluding roadway right of way), except within an approved cluster development.

- b. All Other Residential and Nonresidential -- development shall not exceed twenty-four (24) percent built-upon area on a project by project basis. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

**E. CATAWBA RIVER WS-IV-PA (PROTECTED AREA), REFERRED TO AS: CRWSIV-PA
SOUTH FORK RIVER WS-IV-PA (PROTECTED AREA), REFERRED TO AS: SFRWSIV-PA
MOUNTAIN ISLAND LAKE WS-IV-PA (PROTECTED AREA), REFERRED TO AS: MILWSIV-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 chapter when located in a WS-IV watershed. In order to accommodate moderate to high land use intensity, single family residential uses shall develop at a maximum of two dwelling units per acre (2du / ac). All other residential and non-residential development shall be allowed at a maximum of twenty-four (24) percent built-upon area. A maximum of three dwelling units per acre (3du / ac) or thirty-six (36) percent built-upon area is allowed for projects without a curb and gutter street system.

1. Allowed Uses:

- a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990.
- b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC II.6101-.0209).
- c. Residential development.
- d. Nonresidential development

2. Density and Built-Upon Limits:

- a. Single Family Residential -- development shall not exceed two dwelling units per acre (2du / ac), as defined on a project by project basis. No residential lot shall be less than one-half (1/2) acre (or 20,000 square feet excluding roadway right or way), or one-third



- (1/3) acre for projects without a curb and gutter street system, except within an approved cluster development.
- b. All other Residential and Non-Residential -- development shall not exceed twenty-four (24) percent built-upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six (36) percent built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

SECTION 15.5.3 CLUSTER DEVELOPMENT

Cluster 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 15.5.2. Density or built-upon area for 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. The title to the open space area shall be conveyed to an incorporated homeowners association for management, to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

SECTION 15.5.4 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 banks



or shoreline stabilization is permitted.

- B. No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area 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.

SECTION 15.5.5 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 center lines 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 or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- E. Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of said boundaries. This decision may be appealed to the Watershed Review Board.



SECTION 15.5.6 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 provisions of this chapter shall be included in the area required for another building.
- C. 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.

SECTION 15.5.7 EXISTING DEVELOPMENT

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

- A. **Uses of Land:** This category consists of uses existing at the adoption date of Watershed Regulations on January 1, 1994, where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:
 - 1. When such use of land has been changed to an allowed 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.
- B. **Reconstruction of Buildings or Built-upon Areas:** Any existing building or built-upon area, not in conformance with the restrictions of this chapter, that has been damaged or removed may be repaired and/or reconstructed, 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 not be increased unless storm water control that equals or exceeds the previous development is provided.
3. There are no restrictions on rebuilding or reconstruction of single family residential development.

SECTION 15.5.8 WATERSHED PROTECTION PERMIT

- A. Except where a single family residence is constructed on a lot of record, prior to the effective date of Watershed Regulations on January 1, 1994, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Watershed Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this chapter.
- B. A complete Watershed Protection Permit application and supporting documentation shall be filed with the Watershed Administrator.
- C. Prior to issuance of a Watershed Protection Permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this chapter.
- D. A Watershed Protection Permit 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.

SECTION 15.5.9 BUILDING PERMIT REQUIRED

No building permit required under the North Carolina State Building Code shall be issued for any activity until a Watershed Protection Permit has been issued.

SECTION 15.5.10 WATERSHED PROTECTION OCCUPANCY PERMIT

- A. The Watershed Administrator shall issue a Watershed Protection Occupancy Permit (herein after referred to as "Occupancy Permit")



certifying that all requirements of this chapter 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. The occupancy permit shall also be issued in the same manner for storm water control devices, at completion and acceptance of the device, outlined in Section 15.9.

- B. An occupancy permit, either for the whole or part of a building, shall be applied for coincident with the application for a Permit and shall be issued or denied within ten (10) days after the erection or structural alterations of the building.
- C. Only when a change in use of land or existing building occurs, the Watershed Administrator shall issue an occupancy permit certifying that all requirements of this chapter have been met coincident with the permit.
- D. If the 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 an Occupancy Permit.

SECTION 15.6 PUBLIC HEALTH

SECTION 15.6.1 PUBLIC HEALTH, IN GENERAL

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 absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the improper management of storm water runoff; or any other situation found to pose a threat to water quality.

SECTION 15.6.2 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.

SECTION 15.7 WATERSHED ADMINISTRATOR AND AMENDMENTS

SECTION 15.7.1 WATERSHED ADMINISTRATOR AND DUTIES

The County Land Use Administrator is appointed as Watershed Administrator. The Land Use Administrator may designate certain personnel in the Land Use Services Division to assist in the administration of this chapter and have the same authority as the Watershed Administrator in the execution of the provision of this chapter. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this chapter as follows:

- A. The Watershed Administrator shall issue permits and 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 or his designee shall serve as Clerk to the Watershed Review Board.
- C. The Watershed Administrator shall keep records of all amendments to the local Watershed Regulations and shall provide copies of all amendments upon adoption to the Water Quality Section of the Division of Environment Management.
- D. The Watershed Administrator shall keep records of the jurisdiction's use of the provision that a maximum of ten (10) percent of the non-critical area of WS-II and WS-III watersheds and for local governments that do not choose to incorporate the high density option, ten (10) percent of the protected area of WS-IV watersheds may be developed with new development at a maximum of seventy (70) percent built-upon surface area. Records for each watershed shall include the total acres on non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each project with the following information: location, number of developed acres, type of land use, and storm water management plan (if applicable).



- E. The Watershed Administrator is granted the authority to administer and enforce the provisions of this Chapter, exercising in the fulfillment of his responsibility the full police power of the County. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this chapter.
- F. The Watershed Administrator shall keep a record of variances to the local Watershed Regulations. This record shall be submitted for each calendar year to the, Water Quality Section of the Division of Environmental Management on / or before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.
- G. The Watershed Administrator shall notify the respective municipality of permits, occupancy permits, modifications and amendments to these regulations, variance requests, appeals to the Watershed Review Board, and other matters relating to the enforcement and administration of this ordinance within their respective territory located in any watershed.

SECTION 15.7.2 APPEAL OF WATERSHED ADMINISTRATOR'S DECISIONS

Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board. An appeal of a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty (30) days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing, stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board, all papers constituting the record upon which the appeal is made. An appeal stays all proceedings in furtherance of the enforcement action, unless the Watershed Administrator certifies to the Board that continuance of the action (being appealed), in his opinion, would cause imminent peril to life or property. In such case, proceedings 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.. 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.



SECTION 15.7.3 CHANGES AND AMENDMENTS TO THE WATERSHED PROTECTION ORDINANCE

- A. The 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, 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, the Board of Commissioners may proceed as though a favorable report had been received.
- C. Under no circumstances shall the Board of Commissioners adopt such amendments, supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the 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.

SECTION 15.7.4 PUBLIC NOTICE AND HEARING REQUIRED

Before amending this chapter, the Board of Commissioners shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two (2) 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 set for the hearing.

SECTION 15.8 WATERSHED REVIEW BOARD

SECTION 15.8.1 ESTABLISHMENT OF WATERSHED REVIEW BOARD

- A. The Gaston County Planning Board is hereby appointed as the Watershed Review Board.
- B. It shall take six (6) members to constitute a quorum and to conduct business.
- C. The Watershed Review Board shall adopt rules of conduct at its organizational meeting and shall include but not be limited to the following:



- Members of the Board may be removed by the Board of Commissioners for cause, including violation of the rules stated below:
1. 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.
 2. No Board member shall take part in the hearing, consideration, or determination of any case in which he or she is personally or financially interested. A Board member shall have a "financial interest" in a case when a decision in the case will: (i) cause the member or their spouse to experience a direct financial benefit or loss, or (ii) will cause a business in which the member or their spouse owns a ten (10) percent or greater 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 when it involves a member of his or her immediate family (i.e., parent, spouse, or child).
 3. No Board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from the Watershed Administrator or any other member of the Board, its secretary or clerk prior to the hearing.
 4. Members of the Board shall not express individual opinions on the proper judgment of any case prior to its determination on that case.
 5. 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.
 6. No Board member shall vote on any matter that decides an application or appeal unless he/she had attended the public hearing on that application or appeal.
- D. Prior to the Watershed Review Board considering an item, the Watershed Administrator shall cause notice to be given to any or all municipalities whose corporate or extra territorial jurisdiction covers the property in question, or those municipalities having an interest in the final determination of the Board. Notice shall be given in ample time so that the municipal unit may review the permit application and make comment either in person before the Board when the matter is heard or in writing to the Watershed Administrator, who will present municipal comment for the record.



SECTION 15.8.2 POWERS AND DUTIES OF THE WATERSHED REVIEW BOARD

A. Administrative Review:

The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this chapter.

B. Variances:

The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this Chapter as will not be contrary to the public interests, where owing to special conditions, a literal enforcement of this chapter will result in practical difficulties or unnecessary hardship, so that the spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done. In addition, the 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.

1. Applications for a variance shall be made on the proper form and shall include the following information:
 - a. A site plan, drawn to a scale of one (1) inch equals fifty (50) feet or larger. The Watershed Administrator may approve site plans at smaller scales on a project by project basis. The site plan shall be neatly drawn and indicate:
 - i) The property lines of the parcel and size of parcel;
 - ii) Any existing or proposed structures;
 - iii) Parking areas and other built-upon areas;
 - iv) Surface water drainage;
 - v) North arrow and vicinity map;
 - vi) Name and address of person who prepared the plan;
 - vii) Date of the original drawing, and accurate record of later revisions.
 - b. A complete and detailed description of the proposed variance, with any other pertinent information to support the applicant's position during consideration by the Watershed Review Board.
 - c. The Watershed Administrator shall give written notice describing the variance being requested to each local



government having jurisdiction in the watershed, and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the 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.

2. The Watershed Review Board may grant a variance, if it has evaluated the application for a variance and determined that:
 - a. There are practical difficulties or unnecessary hardships in the application of the strict letter of the Chapter. In order to determine that there are practical difficulties or unnecessary hardships, the Board shall find that the five (5) following conditions exist:
 - i. If the applicant complies with the provisions of the Chapter, he/she can secure no reasonable return from, nor make reasonable use of his/her property. Merely proving that the variance would permit a greater profit to be made from the property shall not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider a variance that is the minimum possible deviation from the terms of the Chapter which will make possible the reasonable use of his/her property.
 - ii. The hardship results from the application of the Chapter to the property, rather than from other factors such as deed restrictions or other hardship.
 - iii. 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.
 - iv. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Chapter, or who purchases the property after the effective date of the Chapter, and then comes to the Board for relief.
 - v. 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.

- b. The variance is in harmony with the general purpose and intent of the Chapter and preserves its spirit.
 - 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. These findings of the Board shall be recorded in the permanent record of the case.
3. In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.
 4. The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied, if it finds there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
 5. 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.
 6. Should the application request 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:
 - a. The variance application;
 - b. The hearing notices;
 - c. The evidence presented;
 - d. Motions, offers of proof, objections to evidence, and rulings on them;
 - e. Proposed findings and exceptions;



- f. The proposed decision, including all conditions added to the permit.
- 7. The preliminary record shall be sent to the Environmental Management Commission for its review as follows:
 - a. If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that:
 - i) The property owner can secure no reasonable return from, nor make any practical use of the property unless the variance is granted; and
 - ii) The variance, if granted, will not result in a serious threat to the water supply, then, the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision including such conditions and stipulations, granting the proposed variance.
 - b. If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that:
 - i) The property owner can secure a reasonable return from or make a practical use of the property without the variance; or
 - ii) The variance, if granted, will result in a serious threat to the water supply, then, the Commission shall deny the variance as proposed. The Commission shall prepare a decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.
- B. Subdivision approval: See Section 15.4.
- C. Public Health: See Section 15.6.
- D. Approval of all development greater than the low density option. See Section 15.9.



SECTION 15.8.3 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. Decisions by the Superior Court will be in the manner of certiorari.

SECTION 15.9 HIGH DENSITY OPTION

SECTION 15.9.1 HIGH DENSITY DEVELOPMENT

- A. When new development exceeds the density / build-upon area, outlined in Section 15.5.2 for each respective watershed, the Watershed Review Board may approve high density development proposals (increase in density and/or built upon area), only when engineered storm water controls devices are used. Each engineered storm water control device shall be designed and constructed to control runoff from the first inch of rainfall with development shall not to exceed limits for the below listed watershed designations:

Long Creek WS-II-BW (LCWSII-BW):30% built-upon area
Indian Creek WS-II-BW (ICWSII-BW):30% built-upon area
Buffalo Creek WS-III-BW (BCWSII-BW):50% built-upon area
Mountain Island Lake WS-IV-CA (MILWSIV-CA):50% built-upon area
Mountain Island Lake WS-IV-PA (MILWSIV-PA):70% built-upon area
Catawba River WS-IV-CA (CRWSIV-CA):50% built-upon area
Catawba River WS-IV-PA (CRWSIV-PA):70% built-upon area
South Fork River WS-IV-CA (SFRWSIV-CA):50% built-upon area
South Fork River WS-IV-PA (SFRWSIV-PA):70% built-upon area.

Each engineered storm water control device shall be a site specific design, on a project by project basis, to meet the requirements of this chapter, and shall require approval of the Watershed Review Board and issuance of a High Density Development Permit.

- B. High density development shall meet the requirements of this chapter.



SECTION 15.9.2 PERMIT APPLICATION

- A. 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 Watershed Review Board through the Watershed Administrator, on the appropriate form, which shall include:
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; application forms; Subdivision Plat Checklist and detailed information concerning built-upon area;
 3. Two reproducible copies of the plans and specifications of the storm water control structure consistent with Section 15.9.3;
 4. Written verification that either an erosion control plan is not required for the development or an erosion control plan has been approved by the appropriate state or local agency;
 5. Permit application fees consistent with Section 15.9.6.
- C. Prior to taking final action on any application, the Board or 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 action within 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 chapter. 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 storm water control structure. A high density development permit shall be issued after the applicant posts a performance bond or other



acceptable security as required in Section 15.9.4(B)(1) and executes an Operation and Maintenance Agreement as required in Section 15.9.4(C). One (1) copy of the permit and one (1) copy of each set of plans shall be kept on file at the Watershed Administrator's office. The original permit and one (1) copy of each set of plans shall be delivered to the applicant.

2. If the Board disapproves the application bases on its findings, the reasons for such action shall be stated in the minutes of the Board and presented to the applicant, in writing. 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. The Watershed Review Board shall issue a High Density Development Permit within sixty-five (65) days of its first consideration upon finding that the proposal is consistent with the applicable standards set forth in the Watershed Protection Regulations and the following conditions are met:
1. The use will not endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
 2. The use minimizes impacts to water quality through the use of Best Management Practices, clustered development and/or maximum setbacks for perennial waters;
 3. The use is vital to the continued growth and economic development of the county. The Board shall find a development as vital if one or more of the following are met:
 - a. The development when completed and fully occupied will increase the tax base of county by at least one hundred thousand dollars (\$100,000); or
 - b. The development will create or retains at least five (5) full-time employment positions not including construction and development of the use; or
 - c. The development is an expansion or affiliate of an existing development located within the watershed and requires a location in close proximity to the existing facility.
 4. Consistent with the county industrial site survey, the industrial use can not be located on another site outside of the designated water supply watershed;



5. The use is consistent with the officially adopted land use plan for county. If the Watershed Review Board finds that any one (1) of the above conditions is not met, the Board shall deny the application.
- F. In addition to any other requirements provided by this Chapter, the Board may designate additional conditions and requirements to assure that the use will be harmonious with the area in which it is proposed to be located and with the spirit of this Chapter. 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.
- G. The Board shall issue a written ruling and make copies available at the office of the Watershed Administrator and the Clerk to the Board of Commissioners.
- H. If the Board approved 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 storm water control structure(s). A high density development permit shall be issued after the applicant posts a performance bond or other acceptable security as required in Section 15.9.4(B)(1) and executes an operation and maintenance agreement as required in Section 15.9.4(C). A copy of the permit and one (1) copy of each set of plans shall be kept on file at the Watershed Administrator's office. The original permit and one (1) copy of each set of plans shall be delivered to the applicant either by personal service or registered mail, return receipt requested.

SECTION 15.9.3 STORM WATER CONTROL STRUCTURES

- A. All storm water control structures shall be designed by a North Carolina registered professional with qualifications appropriate for the type of system required; these registered professional are defined as professional engineers, landscape architect, to the extent that the General Statutes, Chapter 89A allow 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 storm water controls shall use wet detention ponds as a primary treatment system unless alternative storm water management measures,



as outlined in Section 15.9.3 (C), are used. Wet detention ponds shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Environmental Management. Specific requirements for these systems shall be in accordance with the following design criteria:

1. Wet detention ponds shall be designed to remove eighty-five (85) percent of total suspended solids in the permanent pool and storage runoff from a one inch rainfall from the site above the permanent pool;
 2. The designed runoff storage volume shall be above the permanent pool;
 3. The discharge rate from these systems following the one (1) inch rainfall design storm shall be such that the runoff 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. The mean permanent pool depth shall be a minimum of three (3) feet;
 5. The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features;
 6. Vegetative filters shall be constructed for the overflow and discharge of all storm water 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 10-year, 24-hour storm with a 10-year, 1-hour intensity with a slope of five (5) percent or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics.
- C. Alternative storm water management systems, consisting of one (1) treatment option or a combination of treatment options, may be used. The design criteria for approval shall be eighty-five (85) percent average annual removal of Total Suspended Solids. Also, the discharge rate shall meet one of the following criteria:
1. The discharge rate following the 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 pre-development rate for the 1-year, 24-hour storm.
- D. In addition to the vegetative filters required in Section 15.9.3(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 land disturbance. Upon completion of the storm water control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement described in Section 15.9.4(C).
 - E. A description of the area containing the storm water control structure shall be prepared and filed consistent with Section 15.9.7(A and B), as a separate deed with the Gaston County Register of Deeds, along with any easements necessary for general access to the storm water control structure. The deeded area shall include the pond, storm water 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 storm water control structure may be considered pervious when computing total 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.

SECTION 15.9.4 POSTING OF FINANCIAL SECURITY REQUIRED

- A. All new storm water 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 storm water control structures.
- B. Financial assurance shall be in the form of the following:
 1. Security Performance Bond or other security: The permit applicant shall obtain either a performance bond from a surety bonding company authorized to do business in North Carolina; an irrevocable letter of credit or other instrument readily convertible into cash at face value payable to the County or placed in escrow with a financial institution in the County. The bond or other instrument shall be in an amount equal to one and a quarter (1.25) times the total cost of the storm water control structure, as estimated by the applicant and approved by the Watershed Review Board. The total cost of the storm water 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, fills etc. The costs shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization; and

2. Cash or Equivalent Security Deposited After the Release of the Performance Bond: Consistent with Section 15.9.7(C)(1), the permit applicant shall deposit with County either cash or other instrument approved by the Watershed Review Board that is readily convertible into cash at face value. The cash or security shall be in an amount equal to fifteen (15) percent of the total cost of the storm water control structure or the estimated cost of maintaining the storm water control structure over a ten (10) year period, whichever is greater. The estimated cost of maintaining the storm water control structure shall be consistent with the approved operation and maintenance plan or manual provided by the developer under Section 15.9.5(A). The amount shall be computed by estimating the maintenance cost for twenty-five (25) years and multiplying this amount by two fifths or 0.4.
- C. Consistent with Section 15.9.2, the permit applicant shall enter into a binding Operation and Maintenance Agreement between the Watershed Review Board and all interests in the development. Said Agreement shall require the owning entity to maintain, repair and, if necessary, reconstruct the storm water 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 Gaston County Register of Deeds by the Watershed Review Board.
- D. Default under the Performance Bond or Other Security:
Upon default of the permit applicant to complete and/or maintain the storm water 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 storm water control structure in accordance with the operation and maintenance agreement, the Board shall obtain and use all or any portion of the cash security to make 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 operation and maintenance agreement. The Board shall not return any of the deposited cash funds.



SECTION 15.9.5 MAINTENANCE AND UPKEEP

- A. An operation and maintenance plan or manual shall be provided by the developer for each storm water 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, and who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a storm water 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 interfering with any easement or access to the storm water control structure.
- C. Except for general landscaping and grounds management, the owning entity shall notify the Watershed Administrator prior to any repair or reconstruction of the storm water control structure. All improvements shall be made consistent with the approved plans and specifications of the storm water control structure and the operation and maintenance plan or manual. After notification by the owning entity, the Watershed 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 Watershed Administrator may consult with a professional engineer or other qualified person designated by the Watershed Review Board.
- D. Amendments to the plans and specifications of the storm water 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 or landscape architect (to the extent that the General Statute 89A allows) and submitted to and reviewed by the Watershed Administrator prior to consideration by the Watershed Review Board.
 - 1. If the Watershed Review Board approves the proposed changes, the owning entity of the storm water control structure shall file sealed copies of the revisions with the Office of the Watershed Administrator.
 - 2. If the Watershed Review Board disapproved the changes, the proposal may be revised and resubmitted to the Watershed Review



Board as a new proposal. If the proposal has not been revised and is essentially the same as that 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 and file copies of the revised agreement with the Gaston County Register of Deeds, the Office of the Watershed Administrator and the owning entity.

SECTION 15.9.6 APPLICATION AND INSPECTION FEES

- A. Processing and inspection fees shall be submitted in the form of a check or money order made payable to the County. Application and inspections fees are non refundable, except in the case where the application is withdrawn prior to any work being conducted by the 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 Commissioners, shall be posted in the office of the Watershed Administrator. Applicable fees may be amended from time to time to reflect the operational costs of the program. Changes in the fee structure shall be posted in the same manner as the original fee schedule.
- C. Inspection fees shall be valid for sixty (60) days. An inspection fee shall be required when improvements are made to the storm water control structure consistent with Section 15.9.5(C), except in the case when a similar fee has been paid within the last sixty (60) days.

SECTION 15.9.7 INSPECTIONS AND RELEASE OF THE PERFORMANCE BOND

- A. The storm water control structure shall be inspected by the Watershed Administrator, after the owning entity notifies the Watershed Administrator that all work has been completed. At this inspection, the owning entity shall provide:
 - 1. The signed deed, related easements and survey plat for the storm water control structure ready for filing with the Gaston County Register of Deeds;
 - 2. A certification sealed by a North Carolina registered professional engineer or landscape architect (to the extent that the General Statute 89A allows) and stating that the storm water control



structure is complete and consistent with the approved plans and specifications.

- B. The Watershed Administrator shall present the materials submitted by the developer; the inspection report; and recommendations to the Watershed Review Board at its next regularly scheduled meeting for consideration.
 - 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 Gaston County Register of Deeds, release up to seventy-five (75) percent of the value of the performance bond or other security and issue a Watershed Protection Occupancy Permit for the storm water control structure, consistent with Section 15.5.10.
 - 2. If deficiencies are found, the Board shall direct that improvements and inspections be made and/or documents corrected and resubmitted to the Board.
- C. No sooner than one (1) year after the filing date of the deed, easements 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 Watershed Administrator shall inspect the storm water control structure to determine whether the controls are performing as designed and intended. The Watershed 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 Watershed Review Board a cash amount equal to that described in Section 15.9.4(B)(2) after which, the Board shall release the performance bond or other security.
 - 2. If the Board does not accept the report and rejects the petition, the Board shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release of the performance bond or other security.
- D. A Watershed Protection Occupancy Permit or Occupancy Permit under the Building Code shall not be issued for any building within the permitted development until the Watershed Review Board has approved the storm water control structure, as provided in Section 15.9.7 (B).
- E. All storm water 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 Environmental Management. Annual inspections shall begin within one (1) year of filing date of the deed for the storm water control structure.
- F. In the event the Watershed Administrator discovers the need for corrective action or improvements, the Watershed Administrator shall notify the owning entity of the needed improvements, and the date by which the corrective action shall be completed. All improvements shall be made consistent with the plans and specifications of the storm water control structure and the operation and maintenance plan or manual. After notification by the owning entity, the Watershed Administrator shall inspect and approve the completed improvements. The Watershed Administrator may consult with a North Carolina registered professional engineer or landscape architect (to the extent that the General Statute 89A allows) designated by the Watershed Review Board.
- G. Appeals of any order, requirement, decision or determination made by the Watershed Administrator may be made to and decided by the Watershed Review Board consistent with Section 15.7.2.

SECTION 15.9.8 SANCTIONS

In addition to the remedies described in Section 15.2 and consistent with N.C.G.S. 153A-123, the Watershed Review Board may seek enforcement of this Chapter through the County Board of Commissioners by assessing a civil penalty to be recovered by the county in a civil action in the nature of debt if the offender does not pay the penalty in a prescribed period of time after being cited for violation of the Chapter. Said violation may be enforced by an appropriate equitable remedy issuing from court of competent jurisdiction. The court may issue an injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular. If the defendant fails or refuses to comply with an injunction or with an order to abatement within the time allowed by the court, the defendant may be cited for contempt and the county may execute the order of abatement. The county shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and material man's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not



suspend or cancel an injunction issued in conjunction therewith. Enforcement of this ordinance may be by any one (1), all or a combination of the remedies authorized in this ordinance. Each day's continuing violation shall be a separate and distinct offense.

SECTION 15.10 WATERSHED MANAGEMENT PLAN
GASTON COUNTY, NORTH CAROLINA

SECTION 15.10.1 PURPOSE

The North Carolina Water Supply Watershed Protection Act (NC General Statute 143-214.5) requires local governments, having water supply watershed within their jurisdiction, to prepare and adopt spill containment plan within the water supply watershed boundaries as defined on the Watershed Protection Map of Gaston County (based on the most recent version of the United States Geodetic Survey (USGS) 1:24,000 scale topographic maps). It is the intent of this plan to address this requirement and serve as a guide for County staff and other agencies.

SECTION 15.10.2 JURISDICTION

This plan shall be in effect for water supply water shed areas designated on the Watershed Protection Map of Gaston County and shall include municipal jurisdictions (corporate limits and extraterritorial planning jurisdictions) of Bessemer City, Cherryville, Dallas, Kings Mountain, High Shoals, Ranlo and Stanley which lie with a water supply watershed.

SECTION 15.10.3 SECTION 1

The Watershed Management Plan for Gaston County, for territory as defined in the Water Supply Watershed Regulations for Gaston County North Carolina, shall adopt the Gaston County Multi-Hazard Plan, adopted December 1989 (as amended), as the guidelines and regulations for hazardous material inventory and identification; spill containment of hazardous chemicals and substances; and public notification. Nothing contained herein shall repeal, modify, or amend the Gaston County Multi- Hazard Plan as adopted.

SECTION 15.10.4 SECTION 2

The specific list of facilities involved with Hazardous Materials storage and handling, subject to the emergency planning requirements of Section 15.4.2 of the Superfund Amendments and Reauthorization Act of 1986 (SARA, Title III) are on file and maintained in the Gaston County Emergency Management Office.



SECTION 15.10.5 SECTION 3

- A. There are two (2) basic situations involving hazardous materials: i) accidents at fixed facilities; and ii) transportation accidents. In case of an emergency or a spill of hazardous materials, the first responder units (volunteer fire departments, municipal fire department, municipal or County police, or other emergency personnel) will respond to the accident to recognize and identify, to the extent possible, the type of hazardous material involved and the extent of the accident. The Office of Emergency Management will be notified and personnel dispatched to coordinate activities at the site; evaluate the degree of hazard; determine the level of response needed; coordinate containment efforts; make necessary notifications appropriate agencies, surrounding property owners, and media.
- B. The level of response will be determined by the amount and toxicity of the material involved in the accident or the release; the population or water source threatened; the level of protective equipment required for the involved substance(s); and the imminent danger should no immediate action be taken. Depending upon the seriousness of the threat to the public, actions could include in-place sheltering, evacuation, and notification of contaminated water supplies. One of three levels of response will occur:
1. **Level I (Potential Emergency Condition):**
An incident which can be controlled by the first response agencies; does not require evacuation of other than the involved structure or immediate outdoor area; and does not indicate major damage will occur.
 2. **Level II (Limited Emergency Condition):**
An incident involving a greater hazard or larger contaminated area posing a potential threat to life or property, and may require a limited evacuation of the surrounding area or indicates that a major environmental damage could occur. Initial response to the incident can be adequately handled by the jurisdiction's personnel and resources.
 3. **Level III (Full Emergency Condition):**
An incident involving a severe hazard or larger area posing a extreme threat to life or property and which may require a large scale evacuation of the surrounding area, or an incident requiring the combined expertise or resources of the Count State, and/or federal governments and /or private agencies or organizations.



SECTION 15.10.6 SECTION 4

- A. After determination of the nature of the accident and the degree of risk, the Gastonia Hazardous Management Team would be dispatched to the scene, if necessary, under a mutual aid agreement between the County and the City of Gastonia for County wide response of the Management Team. The Gastonia Hazardous Management Team is trained to the Technical Level as defined by 29 CFR 1910.120 and possesses a hazardous materials response truck with up to Level A protective equipment. Along with this Team, the County Emergency Management personnel will dispatch other emergency personnel (police, fire and rescue) on the local level and request assistance from State and federal agencies, when necessary to address the accident.

- B. As a part of the notification process, should a spill occur in the water supply watershed, upstream from a municipal water intake or treatment facility, Emergency Management personnel shall contact the appropriate municipal government and/or the water treatment facility to advise of the accident and other pertinent information.