

PASQUOTANK COUNTY
WATER SUPPLY WATERSHED ORDINANCE

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PASQUOTANK COUNTY WATER SUPPLY WATERSHED ORDINANCE

ARTICLE 100: AUTHORITY AND GENERAL REGULATIONS

Section 101. Title, Authority, Enactment and Preamble.

An Ordinance, in pursuance of the authority granted by the legislature of the State of North Carolina, in Chapter 153A, Article 6, Section 121, General Ordinance Authority; and in Chapter 143, Article 21, Watershed Protection Rules, for the purposes of promoting the public health, safety, and general welfare of its citizenry; to provide for the establishment of watershed regulations within a portion of Pasquotank County where waters flow directly to the Pasquotank River (WS-IV, Pasquotank River Basin) above the potable water intake for the City of Elizabeth City defined by the State to be critical or protected areas; such regulations which stipulate the density and intensity of residential, commercial and industrial development use of storm water controls, stream buffers, sludge/contaminated soil applications, septic/on-site disposal systems, landfills, agricultural vegetative buffers, roads/transportation systems and recreational activities; to prescribe procedures for applying for approval of development, vested rights, and appeals; to provide for administration and enforcement including establishment of a watershed board with duties prescribed in this ordinance; and to supersede any ordinances in conflict with this ordinance.

WHEREAS; the Board of Commissioners for the County of Pasquotank (the "Board of Commissioners") has given due notice to adopting the Watershed Ordinance in accordance with the requirements of this Ordinance and House Bill 124, enacted in 1991;

WHEREAS; all requirements of the General Statutes of North Carolina, with regard to preparation of this Ordinance and subsequent action of the Board of Commissioners have been met;

NOW THEREFORE, the Board of Commissioners for the County of Pasquotank, North Carolina, does hereby ordain and enact into law throughout the area designated on the official Watershed Map(s) of the County of Pasquotank this ordinance entitled "Pasquotank County Water Supply Watershed Ordinance", this the 16th day of May, 1994.

Section 102. Short Title.

This ordinance shall be known as the Water Supply Watershed Ordinance of Pasquotank County, North Carolina. The watershed map(s) referred to in this ordinance, which is identified by the title Official Watershed Map of Pasquotank County, North Carolina shall be known as the "Watershed Map". This ordinance and map shall be permanently kept on file in the office of the Pasquotank County Watershed Administrator.

Section 103. Exceptions to Applicability.

a. Nothing contained in this ordinance shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance which these regulations specifically replace.

b. It is not intended that these regulations interfere with any easements, covenants or other agreements between parties. However, if the provisions of this ordinance impose greater restrictions or higher standards for the use of a building or land, then the provisions of this ordinance shall control.

c. Existing development, as defined in this ordinance, is not subject to the requirements of this ordinance. Expansions to structures classified as existing development must meet the requirements of this ordinance, however, the built-upon area of the existing development is not required to be included in the density calculations.

d. If a nonconforming lot of record is not contiguous to any other lot owned by 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 these rules shall be exempt from these rules if it is developed for one single-family detached residence and if it is exempt from local subdivision regulation. Any lot or parcel created as part of any other type of subdivision that is exempt from a local subdivision ordinance shall be subject to the land use requirements (including impervious surface requirements) of these rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.

Section 104. Criminal Penalties.

Any person violating any provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$500.00 or imprisonment for not more than 30 days. Each day any violation of this ordinance continues shall constitute a separate offense.

Section 105. Remedies.

a. If any subdivision, development or land use is found to be in violation of this ordinance, the Administrator or his designee may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$50.00; 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. Each day that the violation continues shall constitute a separate offense.

b. If the Administrator or the Enforcement Officer for Pasquotank County finds that any of the provisions of this ordinance are being violated, the Administrator or the Enforcement Officer shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The Administrator or the Enforcement Officer 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 to illegal structures; discontinuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Administrator or the Enforcement Officer is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Board of Adjustment.

Section 106. Severability.

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

Section 107. Effective Date.

This ordinance shall take effect on May 27, 1994.

ARTICLE 200: SUBDIVISION OF LAND

Section 201. General Provisions.

a. No subdivision plat of land within the 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 ordinance. Likewise, the Pasquotank County 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 ordinance.

b. The approval of a plat does not constitute or effect the acceptance by Pasquotank County 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 with the mapping requirements contained in G.S. 47-30 and the Pasquotank County Subdivision Regulations enacted March, 1989.

d. All subdivisions of land within the jurisdiction of Pasquotank County after the effective date of this ordinance shall require compliance with the provisions of this ordinance prior to or concurrent with approval of a final plat prepared, approved, and recorded pursuant to the Pasquotank County Subdivision Regulations.

Section 202. Subdivision Application and Review Procedures.

a. All proposed subdivisions shall be reviewed by the Administrator for conformance with this ordinance prior to recording with the Register of Deeds to determine whether or not the property is located within the designated Water Supply Watershed. Subdivisions that are not within the designated watershed area shall not be subject to the provisions of this ordinance and may be recorded provided the Administrator initials the plat. Subdivisions within the designated watershed area are subject to the provisions of this ordinance only when an erosion and sedimentation plan is required under the provisions of state law, or approved local program. Subdivisions within the designated watershed area shall comply with the provisions of this ordinance and all other state and local requirements that may apply.

b. The Administrator shall conduct a preliminary review of the subdivision's preliminary plat, which plat shall be submitted at a scale of 1 inch equals 100 feet or larger. The Administrator shall either approve, approve conditionally or disapprove each application. The Watershed Administrator shall take final action on the preliminary plat within forty-five (45) days of submission of the application. The Administrator or the Board may provide public agencies an opportunity to review the proposed subdivision plat and make recommendations. However, failure of the agencies to submit their comments and recommendations shall not delay action within the prescribed time limit. Public agencies may include, but are not limited to, the following:

- (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 Administrator or Watershed Review Board.

c. If the Watershed Administrator approves the subdivision, such approval shall be indicated on two (2) copies of the plat by the following certificate and signed by the Watershed Administrator:

Certificate of Approval for Recording

I certify that this plat complies with the Water Supply Watershed Ordinance and is approved by the Watershed Review Board for recording in the Register of Deeds office.

Date

Watershed Administrator

**NOTICE: THIS PROPERTY IS LOCATED WITHIN A PUBLIC WATER SUPPLY WATERSHED-
DEVELOPMENT RESTRICTIONS MAY APPLY.**

d. If the Watershed Administrator disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant and entered in the minutes. The subdivider may make changes and submit a revised plan which shall constitute a separate request for the purpose of review.

e. All subdivision plats within the watershed boundaries as delineated on the Watershed Map shall comply with these requirements for recording of deeds.

f. The plat shall be recorded within ninety (90) days of approval. The subdivider shall provide the Administrator with evidence the plat has been recorded with the Register of Deeds within five (5) working days of recordation.

Section 203. Subdivision Standards and Required Improvements.

a. All lots shall provide adequate building space in accordance with the development standards contained in Article 300 of this Ordinance. Lots which are smaller than the minimum required for residential lots may be developed using built-upon area criteria in accordance with Article 300.

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

c. Storm Water Drainage Facilities. Any application for preliminary plat approval being submitted and lying within the boundaries of the watershed as depicted on the Watershed Map shall be accompanied by a proposed stormwater drainage plan. The plan shall provide for a drainage system that diverts storm-water runoff away from surface waters and incorporates best management practices to minimize water quality impacts. The subdivider shall provide a written statement that the plan has been submitted to and approved by the N.C. Division of Environmental Management, Water Quality Section.

d. Erosion and Sedimentation Control. The applications described in Section 203c above shall, where required, be accompanied by a written statement that a Sedimentation and Erosion Control Plan has been submitted to and approved by the N.C. Division of Land Quality.

e. Road Constructed in Critical Areas and Watershed Buffer Areas. Where possible, roads shall be located outside the critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed so to minimize their impact on water quality.

Section 204. Construction Procedures.

a. No construction or installation of improvements, other than survey monuments, flags or stakes shall commence in a proposed subdivision within the watershed boundaries until the subdivision has been reviewed and approved by the Watershed Review Board.

b. Within the watershed boundaries no building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this ordinance until all requirements of this ordinance have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Administrator to provide for adequate inspection.

Section 205. 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 Pasquotank County, thereafter subdivides his land in violation of this ordinance 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 ordinance and recorded in the office of the 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. Pasquotank 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.

ARTICLE 300: DEVELOPMENT REGULATIONS

Section 301. Establishment of Watershed Areas.

a. The purpose of this Article is to list and describe the watershed areas adopted in this ordinance.

b. For purposes of this ordinance, areas within Pasquotank County are divided into the following areas, as appropriate.

- WS-IV-CA (Critical Area)
- WS-IV-PA (Protected Area)

Section 302. Watershed Areas Described.

a. WS-IV Watershed Areas - Critical Area (WS-IV-CA). Only new development activities that require an erosion/sedimentation control plan under State law or approved local government program are required to meet the provisions of this ordinance when located in a WS-IV watershed. Single family residential development shall be allowed at a maximum of two (2) dwelling units per acre. All other residential and nonresidential development shall not exceed twenty-four percent (24%) impervious coverage. New residuals application sites and landfills are specifically prohibited.

(1) Allowed Uses:

- (a) Agriculture subject to the provisions of the Food Security Act of 1985 and and 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 11.6101-.0209).
- (c) Residential.

(d) Non-residential development, excluding:

- 1) landfills; and
- 2) sites for land application of residuals or petroleum contaminated soils.

(2) Density and Built-upon Limits:

- (a) Single Family Residential--development shall not exceed two dwelling units per acre on a project by project basis. No single family residential lot shall be less than one-half (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 percent (24%) built-upon area. 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.

(3) Erosion/Sedimentation Control Plan Waiver:

- (a) The person(s) conducting the land disturbing activities need not submit a local erosion control plan if such persons obtain an Erosion Control Plan Waiver Certificate from the Administrator. An application for this form shall be submitted containing the name, address, and telephone number of the developer and owner, a description and drawing of the proposed development or activity, the location of the development, and any other information requested by the Administrator that is necessary to evaluate the proposed development. The Administrator shall issue the Erosion Control Plan Waiver Certificate if the Administrator finds that the land-disturbing activity will result in uncovering less than one (1) acre and:

- (1) The land-disturbing activity is not to be conducted with any of the following types of development:
 - a. Any activity involving the temporary or permanent storage (above or below ground) of any toxic or hazardous substance, including fuel storage facilities;
 - b. Shopping centers;
 - c. Industrial and commercial facilities; or
 - d. Major subdivisions.

b. WS-IV Watershed Areas - Protected Area (WS-IV-PA). Only new development activities that require an erosion/ sedimentation control plan under state law or approved local government program are required to meet the provisions of this ordinance when located in a WS-IV watershed.

(1) Uses Allowed:

- (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 11.6101-.0209);
- (c) Residential development; and
- (d) Non-residential development.

(2) Density and Built-upon Limits:

- (a) Single-Family Residential—developments with curb and gutter street systems shall not exceed two (2) dwelling units per acre or twenty-four percent (24%) built upon area. Developments without curb and gutter street systems shall not exceed three (3) dwelling units per acre or thirty-six percent (36%) built upon area. No single family residential lot shall be less than one-half (1/2) acre (or 20,000 square feet excluding roadway right-of-way), or one-third (1/3) acre for projects without a curb and gutter street system except within an approved cluster development, consistent with zoning regulations.
- (b) All Other Residential and Non-residential—developments with curb and gutter street systems shall not exceed twenty-four percent (24%) built-upon area. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area. 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.
- (C) **[OPTIONAL FOR LOCAL GOVERNMENTS THAT DO NOT CHOOSE TO INCORPORATE THE HIGH DENSITY OPTION]** In addition to the development allowed under paragraphs (a) and (b) above, new development and expansions to existing development may occupy up to ten percent (10%) of the protected area with up to seventy percent (70%) built-upon area on a project by project basis, when approved as a special intensity allocation (SIA). The Watershed Administrator is authorized to approve SIAs consistent with the provisions of this ordinance. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. 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.

(3) Erosion/Sedimentation Control Plan Waiver:

(a) The person(s) conducting the land disturbing activities need not submit a local erosion control plan if such persons obtain an Erosion Control Plan Waiver Certificate from the Administrator. An application for this form shall be submitted containing the name, address, and telephone number of the developer and owner, a description and drawing of the proposed development or activity, the location of the development, and any other information requested by the Administrator that is necessary to evaluate the proposed development. The Administrator shall issue the Erosion Control Plan Waiver Certificate if the Administrator finds that the land-disturbing activity will result in uncovering less than one (1) acre and:

- (1) The land-disturbing activity is not to be conducted with any of the following types of development:
 - a. Any activity involving the temporary or permanent storage (above or below ground) of any toxic or hazardous substance, including fuel storage facilities;
 - b. Shopping centers;
 - c. Industrial and commercial facilities; or
 - d. Major subdivisions.

Section 303. Cluster Development.

a. Cluster development is allowed in the watershed area under the following conditions:

- (1) Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots or dwelling units shall not exceed the number of lots or dwelling units allowed for single family detached developments as provided in Section 302 of this ordinance. Density or built-upon area for the project shall not exceed that allowed for the critical area or protected area, whichever applies;
- (2) All built-upon areas shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated stormwater flow; and
- (3) 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 Register of Deeds.

Section 304. 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 streambank 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 stormwater Best Management Practices.

Section 305. Rules Governing the Interpretation of Watershed Area Boundaries.

a. Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

- (1) Where area boundaries are indicated as approximately following either street, alley, highway lines, or centerlines thereof, such lines shall be construed to be the watershed boundaries.
- (2) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be the watershed boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to Pasquotank County as evidence that one or more properties along these boundaries do not lie within the watershed area.
- (3) Where area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed boundaries shall be determined by use of the scale appearing on the Watershed Map.

b. Where area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed boundaries shall be construed to be the lot line.

c. Where other uncertainty exists, the Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

Section 306. Application of Regulations.

a. No building or land shall be used and no development shall take place except in conformity with the provisions of this ordinance specified for the watershed area in which it is located.

b. No area required for the purpose of complying with the provisions of this ordinance 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 307. Existing Development.

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

(1) Uses of Land. This category consists of uses existing at the time of adoption of this ordinance where such use of the land is not permitted to be established by this ordinance in the watershed area in which it is located. Such uses may be continued except as follows:

- a) When prohibited use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use;

- b) Prohibited use of land shall be changed only to an allowed use; or
- c) When prohibited use ceases for a period of at least one year, it shall not be re-established.

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

- a) The building or built upon area is in conformance with all other applicable ordinances of Pasquotank County;
- b) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage; and
- c) The total amount of space devoted to built upon area may not be increased unless Stormwater Control that equals or exceeds the previous development is provided.

Section 308. Watershed Protection Permit.

a. 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 the building or land be made until a Watershed Protection Permit has been issued by the Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this ordinance.

b. Watershed Protection Permit applications shall be filed with the Administrator. The application shall include a completed application form (see Appendix A) and supporting documentation deemed necessary by the Administrator.

c. Prior to issuance of a Watershed Protection Permit, the Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.

d. A Watershed Protection Permit shall expire if a building permit or Watershed Occupancy Permit is not obtained by the applicant within twelve (12) months from the date of issuance.

Section 309. Building Permit Required.

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

Section 310. Watershed Protection Occupancy Permit.

a. The Administrator or his designee shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met prior to occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.

b. A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) days after the erection or structural alterations of the building. The building must have received approval by the Building Inspector for compliance with the North Carolina State Building Code prior to issuance of the Watershed Protection Occupancy Permit.

c. When only a change in use of land or existing building occurs, the Watershed Administrator or his designee shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met coincident with the Watershed Protection Permit.

d. No building or structure which has been erected, moved or structurally altered may be occupied until the Administrator has approved and issued a Watershed Protection Permit.

Section 311. Inspections.

a. The Inspections Division of the Pasquotank County Planning and Inspections Department has the duty in furtherance of this ordinance to:

- (1) make all necessary inspections to insure compliance with this ordinance;
- (2) issue or deny certificates of compliance;
- (3) issue or deny certificates of occupancy;
- (4) issue stop work orders or orders to correct violations;
- (5) maintain adequate records of permits issued or denied, inspections made, corrections ordered, and certificates issued; and
- (6) take other actions that may be required to adequately enforce this ordinance.

ARTICLE 400: PUBLIC HEALTH REGULATIONS

Section 401. Public Health.

No activity, situation, structure or land use which poses a threat to water quality and the public health, safety and welfare shall be allowed within the watershed. 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 stormwater runoff; or any other situation found to pose a threat to water quality.

Section 402. Abatement.

a. The Administrator or his designee shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

b. The Administrator or his designee shall report all findings to the Watershed Review Board. The 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 Watershed Review Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

ARTICLE 500: ADMINISTRATION, ENFORCEMENT AND APPEALS

Section 501. Administrator; Duties

- a. The County of Pasquotank shall appoint an Administrator, who shall be duly sworn.
- b. It shall be the duty of the Administrator to administer and enforce the provisions of this ordinance as follows:
 - (1) The Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed in this ordinance. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.
 - (2) The Administrator or his designee shall serve as clerk to the Watershed Review Board.
 - (3) The Administrator shall keep records of all amendments to this ordinance and shall provide copies of all amendments upon adoption to the Water Quality Division of the N.C. Department Division of Environment and Natural Resources.
 - (4) The Administrator is granted the authority to administer and enforce the provisions of this ordinance. The Administrator, or the Administrator's designee, may enter any building, structure, or premises, as provided by law, to perform any duty imposed by this ordinance.
 - (5) The Administrator shall keep a record of variances to this ordinance. This record shall be submitted for each calendar year to the Local Government Assistance Unit of the Division of Water Quality 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.

Section 502. Appeal from the Watershed Administrator.

- a. Any order, requirement, decision or determination made by the Administrator may be appealed to and decided by the Watershed Board of Adjustment.
- b. An appeal from a decision of the Administrator must be submitted to the Watershed Board of Adjustment 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 the appeal. Following submission of an appeal, the Administrator shall transmit to the Watershed Board of Adjustment all papers constituting the record upon which the action appealed from was taken.
- c. An appeal stays all proceedings in furtherance of the action appealed, unless the Administrator certifies to the Watershed Board of Adjustment after the notice of appeal has been filed with the Administrator, that by reason of facts stated in the certificate, a stay would in the Administrator's opinion cause imminent peril to life or property. In that case proceedings may not be stayed except by a restraining order, which may be granted by the Watershed Board of Adjustment or by a court of record on application, on notice to the Administrator and on due cause shown.
- d. The Watershed Board of Adjustment shall fix a reasonable time for hearing the appeal and give notice of the hearing to the parties and shall decide the appeal within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

Section 503. Changes and Amendments to the Water Supply Watershed Protection Ordinance.

- a. The Pasquotank County Board of Commissioners may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described in this ordinance.

b. No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. The Watershed Review Board shall have forty-five (45) days from the time the proposed amendment is submitted in which to make its recommendation. If the Watershed Review Board fails to submit a report within forty-five (45) days, the Pasquotank County Board of Commissioners may proceed as though a favorable report had been received. The Pasquotank County Board of Commissioners is not bound by the recommendations, if any, of the Watershed Review Board.

c. Under no circumstances shall the Pasquotank County Board of Commissioners adopt amendments, supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments shall be filed with the N.C. Division of Water Quality, N.C. Division of Environment and Natural Resources, and the N.C. Division of Community Assistance.

Section 504. Public Notice and Public Hearing Required.

Before adopting or amending this ordinance, the Pasquotank County 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 successive calendar weeks in a newspaper having general circulation in the county. 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.

Written notification must be forwarded by first class mail to each local government having jurisdiction within the watershed and to the entity using the water supply for consumption where an amendment or a variance is being considered. Prior to the request being reviewed by the Watershed Review Board each governmental entity shall be allowed thirty (30) days (from the date the notices are mailed) to respond with any concerns.

Section 505. Fees for Application to Watershed Board of Adjustment.

Application fees for variances or appeals to the Watershed Board of Adjustment shall be established by the Pasquotank County Board of Commissioners, in order to cover necessary administrative costs and advertising expenses. Fees shall be paid prior to the placement of an item on any agenda of the Watershed Board of Adjustment.

Section 506. Establishment of Watershed Review Board.

The Pasquotank County Planning Board, consisting of seven (7) members appointed by the Pasquotank County Board of Commissioners, shall serve as the Watershed Review Board. Officers and duties, rules of conduct for members, and meeting procedures shall be conducted in accordance with the Rules of Procedure for the Pasquotank County Planning Board (July 15, 1993 and any subsequent amendments) described in Appendix I.

Section 507. Establishment of Watershed Board of Adjustment.

The Pasquotank County Zoning Board of Adjustment, consisting of five (5) active members and two (2) alternate members appointed by the Pasquotank County Board of Commissioners, shall serve as the Watershed Board of Adjustment. Officers and duties, rules of conduct for members, and meeting procedures shall be conducted in accordance with Rules of Procedure for the Zoning Board of Adjustment (February 1, 1993 and any subsequent amendments) described in Appendix II.

Section 508. Powers and Duties of Watershed Board of Adjustment.

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

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

1. The Administrator 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.
2. Applications for a variance shall be made on the proper form obtainable from the Administrator and shall include the following information:
 - (i) A site plan, drawn to a scale of at least one (1) inch to fifty (50) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of original drawing, and an accurate record of any later revisions.
 - (ii) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Board of Adjustment in considering the application.
 - (iii) The Administrator shall notify in writing each local government having jurisdiction in the watershed. Notice shall include a description of the variance being requested. Local governments receiving notice of the variance may, within thirty (30) days from the date notice is issued, submit comments to the Administrator prior to a decision by the Watershed Board of Adjustment. The comments shall become a part of the record of proceedings of the Watershed Board of Adjustment.
3. Before the Watershed Board of Adjustment may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:
 - (i) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Watershed Board of Adjustment must find and conclude that the five following conditions exist:
 - a) If the applicant complies with the provisions of the ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the granting of a variance. Moreover, the Watershed Board of Adjustment shall consider whether the variance is the minimum possible deviation from the terms of the ordinance that will make possible the reasonable use of the applicant's property.
 - b) The hardship results from the application of the ordinance to the property rather than from other factors such as deed restrictions or other hardship.
 - c) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.

- d) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the ordinance, or who purchases the property after the effective date of the ordinance, and then comes to the Watershed Board of Adjustment for relief.
 - e) The hardship is particular 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.
 - (ii) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit.
 - (iii) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board of Adjustment shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.
4. In granting the variance, the Watershed Board of Adjustment may attach conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this ordinance. If a variance for the construction, alteration or use of property is granted, construction, alteration or use shall be in accordance with the approved site plan.
 5. The Watershed Board of Adjustment shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
 6. 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 the use is not obtained by the applicant within six (6) months from the date of the decision.
 7. If the application calls for the granting of a major variance, and if the Watershed Board of Adjustment decides in favor of granting the variance, the Watershed Board of Adjustment 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 proposed to be added to the permit.
 8. The preliminary record shall be sent to the N.C. Environmental Management Commission for its review as follows:
 - (i) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that:
 - a) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted; and

b) 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 Commission decision and send it to the Watershed Board of Adjustment. If the Commission approves the variance as proposed, the Watershed Board of Adjustment 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.

(ii) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that:

a) the property owner can secure a reasonable return from or make a practical use of the property without a variance; or

b) the variance, if granted, will result in a serious threat to the water supply;

then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed.

Section 509. Appeals from the Watershed Board of Adjustment.

Each decision of the Watershed Board of Adjustment is subject to review by the Pasquotank County Superior Court by proceedings in the nature of certiorari. Any petition for review by the Pasquotank County Superior Court shall be filed with the Pasquotank County Clerk of Superior Court within 30 days after the decision of the Watershed Board of Adjustment is filed in the office of the Administrator, or after a written copy of the decision is delivered to every aggrieved party who has filed a written request for a copy of the decision with the Administrator or Chairman of the Watershed Board of Adjustment at the time of its hearing of the case, whichever is later. The decision of the Watershed Board of Adjustment may be delivered to the aggrieved party either by personal service or by registered or certified mail return receipt requested.

ARTICLE 600: DEFINITIONS

Section 601. General Definitions.

Administrator. An official or designated person of the Pasquotank County Commission responsible for administration and enforcement of this ordinance.

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

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

Buffer. Any natural buffer from the wetland boundary line as defined by the U.S. Corps of Engineers or an area of natural or planted vegetation through which storm water runoff flows on 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 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

building.

Built-upon area. Built-upon areas should 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, paths), and recreation facilities of whatever nature. Wooden slatted decks and the water area of a swimming pool are considered pervious.

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

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 one-half (1/2) mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed whichever comes first. Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half (1/2) mile.

Development. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Discharging Landfill. A landfill which discharges treated leachate and which requires a National Pollution Discharge Elimination System (NPDES) permit.

Dwelling Unit. A building, or portion thereof, providing complete and permanent living facilities for one family.

Existing Development. Those projects that are built on 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 (G.S. 153A-344.1 and G.S. 160A-385.1), or
- (3) having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 153A-344.1 and 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 Pasquotank County Register of Deeds prior to the adoption of this ordinance, 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 or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five (5) persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a family or families.

Family Subdivision. Family subdivision means a division of a tract of land: (a) 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 parcel is conveyed by the grantor from the tract to any one relative; or (b) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.

Industrial Development. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, 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 the Chapter 130A, Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

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

Major Variance. A variance that results in the relaxation, by a factor greater than ten percent (10%), of any management requirements, such as buffer, density or built upon area.

Minor Variance. A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to ten (10) percent of any management requirement, such as buffer, density or built-upon area.

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.

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

Plat. A map or plan of a parcel of land which is to be, or has been subdivided according to the Pasquotank County Subdivision Regulations.

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 miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

Residential Development. Buildings for residence such as attached and detached single-family dwellings, apartment complexes, 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 dwelling unit;
- (2) every dwelling unit is on a separate lot; and
- (3) where no lot contains more than one dwelling unit.

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

Structure. Anything constructed or erected, including but not limited to buildings, which requires 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 defined in this ordinance.

Subdivision. All divisions of a tract or parcel of land (in addition to the undivided remaining portion of the original undivided tract) into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

- (1) The combination or recombination of portions of previously subdivided or recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;
- (2) The division of land into parcels greater than ten (10) acres if no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for widening or opening streets;
- (4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations;
- (5) The division of a tract of land into one lot where:
 - a. The lot fronts upon a State-maintained road;
 - b. The lot is served by a public water system;
 - c. The lot is large enough to meet applicable State and local health codes and other local ordinances; and
- (6) The gift by a property owner of a single lot to the property owner's child or parent or to each of the property owner's children or parents where:
 - a. The lot fronts upon a State-maintained road;
 - b. The lot is served by a public water system; and
 - c. The lot is large enough to meet applicable State and local health codes and other local ordinances.

This exemption shall be for a one-time gift of a single lot to each child or parent of the property owner. A gift of any additional lot to the same child or parent shall require compliance with the county's subdivision ordinance.

Toxic Substance. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in 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 Board of Adjustment relaxing or waiving a water supply watershed management requirement adopted by the N.C. Environmental Management Commission that is incorporated into this ordinance.

Water Dependent Structure. Any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as rest-aurants, 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 IV. Waters protected as water supplies which are generally in moderately to highly developed watersheds. Point source discharges of treated wastewater are permitted pursuant to Rules .0104 and .0216 of subchapter 2B, Surface Water and Wetland Standards, of the Division of Water Quality Rules Manual.

Section 602. Word Interpretation.

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

Words in the present tense include the future tense.

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

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

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

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

The word "shall" is always mandatory and not merely directory.

The word "will" is always mandatory and not merely directory.

AMENDMENTS

07-15-2002

To add and delete language as proposed by DWQ to clarify language and agencies. This amendment also includes the 10/70 Option in Section 302.

APPENDIX I

RULES OF PROCEDURE PLANNING BOARD PASQUOTANK COUNTY, NORTH CAROLINA

I. GENERAL RULES

The Planning Board shall be governed by the terms of Chapter 153A, Article 18 of the General Statutes of North Carolina and by applicable local ordinances of Pasquotank County.

II. OFFICERS AND DUTIES

A. Chairman. A chairman shall be elected by the full membership of the Planning Board. His/Her term of office shall be one year and until his/her successor is elected, beginning on July 1, and he/she shall be eligible for re-election. The chairman shall decide upon all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Board in session at the time. The chairman shall appoint any committees found necessary to investigate any matters before the Board.

B. Vice Chairman. A vice chairman shall be elected by the Board in the same manner and for the same term as the chairman. He/She shall serve as acting chairman in the absence of the chairman, and at such time he/she shall have the same powers and duties as the chairman.

C. Clerk. The secretary or other designee of the Pasquotank County Planning Director shall serve as Clerk to the Board. The clerk shall keep minutes of the proceedings. All minutes shall be open to the public.

III. RULES OF CONDUCT FOR MEMBERS

A. Members of the Planning Board may be removed for cause by the County Commissioners.

B. Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a pre-requisite of continuing membership of the Board.

C. No Board member shall take part in any item presented to the Board in which he/she is personally or financially interested.

D. In the case of petitions for rezoning request, no Board member shall discuss the request with any parties thereto prior to the meeting to hear the request; provided however, that members may receive and/or seek information pertaining to the request from any other member of the Board or the Pasquotank County staff prior to the meeting.

IV. MEETING

A. Regular Meetings. Regular meetings of the Board shall be held on the fourth Thursday of each month in the Pasquotank County Courthouse. The meeting is scheduled to begin at 7:00 PM.

B. Special Meetings. Special meetings of the Board may be called at any time by the chairman or the planning director. At least forty-eight (48) hours written notice of the time and place of special meetings shall be given, by the clerk, to each member of the Board.

C. Cancellation of Meetings. Whenever there are no items for consideration by the Board, or whenever so many members notify the clerk of inability to attend that a quorum will not be available, the chairman or planning director may dispense with a regular meeting by given written or oral notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.

D. Quorum. A quorum shall consist of four (4) members of the Board.

E. Voting. A concurring vote of four (4) members of the Board shall be required in order to take action on any matter.

F. Conduct of Meetings. All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

- a. call meeting to order
- b. approval of minutes of previous meeting
- c. consideration of items on agenda
- d. committee reports
- e. staff reports
- f. adjournment

V. AMENDMENTS

These rules may be amended at any time by an affirmative vote of not less than four (4) members of the Board at a regular or special meeting.

These rules of procedure were duly adopted on July 15, 1993 by the Planning Board of Pasquotank County, North Carolina.

AMENDMENTS

DATE	SECTION
01-13-1994	IV. MEETING A. Regular Meetings.

APPENDIX II

RULES OF PROCEDURE ZONING BOARD OF ADJUSTMENT PASQUOTANK COUNTY, NORTH CAROLINA

I. GENERAL RULES

The Zoning Board of Adjustment shall be governed by the terms of Chapter 153A, Article 18, and Chapter 63, Article 4, of the General Statutes of North Carolina and by the Pasquotank County Zoning Ordinance.

II. OFFICERS AND DUTIES

A. Chairman. A chairman shall be elected by the full membership of the Board of Adjustment from among its regular members. His term of office shall be one year and until his successor is elected, beginning on July 1, and he shall be eligible for re-election. The chairman shall decide upon all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Board in session at the time. The chairman shall appoint any committees found necessary to investigate any matters before the Board.

B. Vice Chairman. A vice chairman shall be elected by the Board from among its regular members in the same manner and for the same term as the chairman. He shall serve as acting chairman in the absence of the chairman, and at such time he shall have the same powers and duties as the chairman.

C. Secretary. The Pasquotank County Planning Director or his designee shall serve as the Secretary of the Board. The secretary shall keep minutes of the proceedings. All minutes shall be open to the public. The minutes shall contain relevant facts and testimony of each appeal, the vote of each member on each appeal, abstention from voting and attendance.

III. RULES OF CONDUCT FOR MEMBERS

A. Members of the Board of Adjustment may be removed for cause by the County Commissioners upon written charges and after public hearing.

B. Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a pre-requisite of continuing membership on the Board.

C. No Board member shall take part in the hearing, consideration or determination of any case in which he is personally or financially interested.

D. No Board member shall vote on any matter deciding an application or appeal unless he shall have attended the public hearing on that application.

E. 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 any other member of the Board or its secretary prior to the hearing.

F. Members of the Board will not express individual opinions on the proper judgment of any case with any parties thereto prior to its determination of that case. Violation of this rule shall be cause for dismissal from the Board.

IV. MEETING

A. Regular Meetings. Regular meetings of the Board shall be held on the fourth Tuesday of each month at 7:30 PM in the Conference Room at the Pasquotank County Courthouse.

B. Special Meetings. Special meetings of the Board may be called at any time by the chairman. At least forty-eight (48) hours written notice of the time and place of special meetings shall be given, by the secretary or by the chairman, to each member of the Board.

C. Cancellation of Meetings. Whenever there are no appeals, applications for variances, applications for special uses, or other business for the Board, or whenever so many members notify the secretary of inability to attend that a quorum will not be available, the chairman or planning director may dispense with a regular meeting by giving written or oral notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.

D. Quorum. A quorum shall consist of four (4) members of the Board.

E. Voting. A concurring vote of four (4) members of the Board shall be required to reverse any order, decision, or determination of the Enforcement Officer or to decide in favor of the applicant any matter which the Board is required to pass under the provisions of the County Zoning Ordinance, or to grant any variation in the County Zoning Ordinance.

F. Conduct of Meetings. All meetings shall be open to the public. The order of business at regular meetings shall be as follows: (a) roll call; (b) approval of minutes of previous meeting; (c) hearing of cases; (d) reports of committees; (e) unfinished business; (f) new business; (g) consideration and determination of cases heard.

V. APPEALS AND APPLICATIONS

A. Types of Appeals. The Board shall hear and decide all appeals from and review any order, requirement, decision, or determination made by the Building Inspector/Zoning Enforcement Officer or Planning Director/Zoning Administrator. It shall also hear and decide all requests for variances or interpretations upon which it is required to pass by the Zoning Ordinance of Pasquotank County.

B. Procedure for Filing Appeals. Notice of an appeal to the Board of Adjustment shall be filed with the Building Inspector. No appeal shall be heard by the Board unless filed within thirty (30) days after the interested party or parties receive notice of the order, requirement, decision, or determination by the Building Inspector/Zoning Enforcement Officer or Planning Director/Zoning Administrator.

C. Hearings.

1. Time. After receipt of notice of appeal, the Board Chairman or Planning Director shall schedule the time for a hearing, which shall be at a regular or special meeting forty-five (45) days from the filing of such notice of appeal.

2. Notice. Due notice shall be given to all parties having interest in an appeal; specifically, at least one (1) week prior to the date of the hearing, the Planning Director shall furnish all adjoining property owners with written notice of the hearing. Notice of a Public Hearing shall be published once a week for two (2) consecutive calendar weeks in a local newspaper of general circulation. Public Notice may be posted on the property concerned indicating the proposed change and date of public hearing.

3. Conduct of Hearing. Any parties may appear in person or by agent or by attorney at the hearing. The order of the business for hearing shall be as follows: (1) the chairman, or such persons as he shall direct, shall give a preliminary statement of the case; (b) the applicant shall present the argument in support of his application; (c) persons opposed to granting the application shall present the argument against the application; (d) both sides will be permitted to present rebuttals to opposing testimony; (e) the chairman shall

summarize the evidence which has been presented, giving the parties opportunity to make objections or corrections. Witnesses may be called and factual evidence may be submitted, but the Board shall not be limited to consideration of such evidence as would be admissible in a court of law. The Board may view the premises before arriving at a decision. All witnesses before the Board shall be placed under oath and the opposing party may cross-examine them.

4. Rehearings. An application for a rehearing may be made in the same manner as provided for an original hearing. Evidence in support of the application shall initially be limited to that which is necessary to enable the Board to determine whether there has been a substantial change in the facts, evidence, or conditions in the case. The application for rehearing shall be denied by the Board if from the record it finds that there has been no substantial change in facts, evidence, or conditions. If the Board finds that there has been change, it shall thereupon treat the request in the same manner as any other application.

D. Decisions.

1. Time. Decisions by the Board shall be made not more than forty-five (45) days from the time the appeal was heard by the Board.

2. Form. Written notice of the decision in a case shall be given to the applicant by the Building Inspector or Planning Director as soon as practicable after the case is decided. The final decision of the Board shall be shown in the record of the case as entered in the minutes of the Board and signed by the secretary and the chairman upon approval of the minutes by the Board. Such record shall show the reasons for the determination, with a summary of the evidence introduced and the findings of fact made by the Board. Where a variance is granted, the record shall state in detail any exceptional difficulty or unnecessary hardship upon which the appeal was based and which the Board finds to exist. The decision may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from. The record shall state in detail what, if any, conditions and safeguards are imposed by the Board in connection with the granting of a variance or appeal.

3. Voting at Hearings. A concurring of four members of the Board shall be required to reverse any order, decision, or determination of the Enforcement Officer or to decide in favor of the applicant any matter which the Board is required to pass under the provisions of the County Zoning Ordinance, or to grant any variation in the County Zoning ordinance.

4. Public Record of Decisions. The decisions of the Board, as filed in its minutes, shall be a public record, available for inspection at all reasonable times.

VI. AMENDMENTS

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than four (4) members of the Board, provided that such amendment be presented in writing at a regular or special meeting preceding the meeting at which the vote is taken.

These rules of procedure were duly adopted on February 1, 1993 by the Zoning Board of Adjustment of Pasquotank County, North Carolina.