



Watershed Protection Ordinance

Town of Stem
North Carolina

Adopted June 21, 2021

Supersedes Version February 20, 2012

WATERSHED CERTIFICATE OF APPROVAL

I certify that the subdivision of property shown hereon complies with the Watershed Protection Ordinance of Stem, North Carolina.

Date	Watershed Administrator or Mayor, Town of Stem Watershed Review Board

Notice: This property is located within a Public Water Supply Watershed and development restrictions may apply. Any further subdivision and/or development of this property shall meet the requirements of the Town of Stem Watershed Protection Ordinance.

The Watershed Administrator and/or the Watershed Review Board may also require the placement of any notes, warnings, or explanations on the plat prior to signature of approval.

(D) If the Watershed Review Board disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the application 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 shall comply with the recording requirements of the Granville County Register of Deeds Office.

(F) Any request for subdivision approval under the requirements of this Ordinance shall require the subdivider to submit the mylar and appropriate blue line copies and a check made payable to the Granville County Register of Deeds in the amount necessary to record the plat. This check will be submitted to the Register of Deeds by the Watershed Administrator to allow for the recording of the plat following all necessary approvals.

Section 402. Subdivision Standards and Required Improvements.

(A) All subdivisions and development projects shall provide adequate building space in accordance with the development standards contained in Article V of this Ordinance. Areas which are smaller than the minimum required residential development or are set aside as open space shall be identified numerically and graphically on the plat as “PERMANENTLY RESERVED OPEN SPACE – NO IMPERVIOUS DEVELOPMENT ALLOWED”.

(B) Storm Water Drainage Facilities. The application shall be accompanied by a description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts storm water runoff away from surface waters and incorporate best management practices to minimize water quality impacts.

(C) Erosion and Sedimentation Control. 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 North Carolina Division of Land Quality.

(D) Roads constructed in watershed buffer areas. Where possible, roads should be located outside of watershed buffer areas. Roads constructed within these areas shall be designed and constructed so to minimize impact on water quality.

Section 403. Construction Procedures.

(A) No construction or installation of improvements shall commence in a proposed subdivision until a preliminary subdivision plat has been approved by the Watershed Review Board or by the Watershed Administrator.

(B) No building or other permits shall be issued or 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 Watershed Administrator to provide for adequate inspection.

Section 404. Revision of Approved Subdivisions.

Following final subdivision approval, all projects approved under the provisions of this Ordinance shall be developed according to the approved subdivision plat. Any further subdivision, resubdivision, development, or change shall not be allowed unless a revised subdivision plat is presented and approved under the provisions of this Ordinance.

Section 405. 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 Stem, hereafter subdivides his land in violation of this Ordination 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. Stem 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 V – WATERSHED DEVELOPMENT REGULATIONS

Section 500. Establishment of Watershed Area.

The purpose of this Article is to list and describe the watershed areas of Stem herein adopted and as delineated on the Watershed Map.

For the purposes of this Ordinance, the Stem watershed area shall be designated as follows:
WS-II BALANCE OF WATERSHED AREA – (WS-II-BW) - Lake Rogers / Ledge Creek

Section 501. Watershed Development Requirements.

The following requirements shall apply within the Stem watershed:
WS-II BALANCE OF WATERSHED AREA – (WS-II-BW) - Lake Rogers / Ledge Creek

Low density option. 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), except with an approved cluster development. All other residential and nonresidential development shall be allowed a maximum of 12% built-upon area. Low density developments shall maintain the pre-development hydrologic response in accordance with the Town of Stem Stormwater Ordinance for New Development (implementing the Falls Lake Rules).

High density option. If the development density exceeds the low density requirements above, then permanent stormwater control measures are required in accordance with section 501(D); new residential development shall be allowed at a maximum of two dwelling units per acre (2 du/ac); residential and nonresidential development density shall not exceed 24% built-upon area. All high-density development will be in accordance with the Town of Stem Stormwater Ordinance for New Development (implementing the Falls Lake Rules).

- (A) Allowed Uses.
 - 1) Residential development, including single family and all other residential.
 - 2) Non-Discharging Landfills (Discharging Not Allowed).
 - 3) Sludge Application Sites.
 - 4) Non-residential development excluding the storage of toxic and hazardous materials unless a site specific spill/failure containment plan is approved and implemented. New and expanding industrial sites shall incorporate adequately designed, constructed, and maintained spill containment structures if hazardous materials are used, stored, or manufactured on site. (See Appendix A).

- (B) Density and Built-upon Limits:
 - 1) Single Family Residential lot size shall be a minimum of forty thousand (40,000) square feet (excluding roadway right-of-way), or the overall density of the development does not exceed one dwelling unit per acre, or the development shall not exceed twelve percent (12%) built-upon area on a project-by-project bases. For the purposes of calculating built-upon area, total project area shall include the total acreage of the tract on which the project is being developed.
 - 2) All multi-family, cluster residential and non-residential development shall not exceed twelve percent (12%) built-upon area on a project-by-project basis. For the purposes of calculating built-upon area, total project area shall include the total acreage of the tract on which the project is being developed.

- (C) Storm water runoff from all new development shall be transported by vegetated conveyances to the maximum extent practicable. If transportation of stormwater on the site can be practicably done by the use of vegetated conveyances, then the standard curb and gutter and storm water collection systems are not allowed. That is, the below listed

vegetated swale specifications are required.

1) Vegetative swale requirements

- a. A vegetated conveyance device such as a swale shall be used to provide transportation of storm water runoff. The construction of the swale must provide for even distribution of runoff across the width of the vegetated swale;
- b. The slope and length of the vegetative swale shall be designed, constructed, and maintained so as to provide a non-erosive velocity of flow through the swale for the 10-year storm and shall have a slope of five percent (5%) or less, where practicable;
- c. Vegetation in swale may be natural vegetation, grasses, or artificially-planted wetland vegetation appropriate for the site characteristics.

2) Curb outlet systems. In lieu of use of only vegetative swales in these settings, curb and gutter collection systems may be used if below listed curb outlet systems are employed:

- a. Projects that meet the low-density provisions may use curb and gutter with outlets to convey the storm water to vegetated areas;
- b. The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the 10-year storm and velocity of the flow shall be non-erosive;
- c. The side slopes of the swales or vegetated areas shall not be steeper than 5:1 (horizontal to vertical). Where this is not practical due to physical constraints, devices to slow the rate of runoff and to encourage infiltration to reduce pollutant delivery shall be provided;
- d. The swales or vegetated areas for curb outlet systems shall be designed to extend the maximum length practicable (e.g. 100-foot filter length).

(D) Stormwater Control Measures (SCM)

- 1) SCMs shall be designed, constructed, and maintained so that the project achieves either "runoff treatment" or "runoff volume match" as those terms are defined in Article XII;
- 2) For high density projects designed to achieve runoff treatment, the required storm depth shall be one inch. Applicants shall have the option to design projects to achieve runoff volume match in lieu of runoff treatment;
- 3) Stormwater runoff from off-site areas and "existing development," as that term is defined in Article XII, shall not be required to be treated in the SCM. Runoff from off-site areas or existing development that is not bypassed shall be included in sizing of on-site SCMs;
- 4) SCMs shall meet the relevant MDC set forth in 15A NCAC 02H .1050 through .1062; and
- 5) Stormwater outlets shall be designed so that they do not cause erosion downslope of the discharge point during the peak flow from the 10-year storm event as shown by engineering calculations.

**ARTICLE VI – CLUSTER RESIDENTIAL AND
MULTI-FAMILY RESIDENTIAL DEVELOPMENT**

Section 600.

Cluster residential development and multi-family residential development shall be allowed in the Stem Watershed Area under the following conditions:

(A) The projects must meet any other development ordinance requirements of the Town of Stem.

(B) Minimum lot size requirements shall not be applicable to cluster residential development projects; however, the built-upon area of a project shall not exceed that allowed for the watershed area in which the property is located and the number of lots created that are associated with the development shall not exceed the maximum allowed under the normal minimum lot size density requirements of the respective watershed area. Applications to develop under the multi-family residential and cluster residential built-upon provisions must be submitted to the Watershed Administrator. The Watershed Administrator may approve the residential development project or forward the application and plans to the Watershed Review Board for consideration and approval.

(C) Development projects proposed under the provisions of this Article shall be designed, applied for, and approved in the same manner as outlined in Article VIII of this Ordinance.

(D) All development and associated built-upon area shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated storm water flow. Plans to achieve these goals shall be included in the application and will be considered as part of the final approval, as amended.

Designs to limit runoff impact should include:

- 1) The creation of grass swales (berms) between built-upon areas and receiving areas
- 2) The placement of vegetative buffers, rock-check dams, and other controls between the built upon areas and storm water receiving areas
- 3) The directing of land disturbing activities and development away from environmentally sensitive areas such as 100-year floodplains, low-lying areas, etc
- 4) Maximum preservation of natural area supplemented by the above

(E) The remaining open space of developed property 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 as 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. All subdivision plats, site plans, and other documents shall detail the exact location and boundaries of the open space and non-disturbed area.

ARTICLE VII – BONUS DEVELOPMENT

Section 700.

(A) Notwithstanding the standard development provisions of Section 501 of Article V, it may be permitted that up to ten percent (10%) of the WS-II-BW Watershed Area be developed with projects that are up to seventy percent (70%) built-upon area.

(B) Development projects proposed under the provisions of this Article shall be designed, applied for, and approved in the same manner as outlined in Article VIII of this Ordinance.

(C) All built-upon areas shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated storm water flow. Plans to achieve these goals shall be included in the application and will be considered as part of the final approval, as amended.

Designs to limit runoff impact should include:

- 1) The creation of grass swales (berms) between built-upon areas and receiving areas
- 2) The placement of vegetative buffers, rock-check dams, and other controls between the built upon areas and storm water receiving areas
- 3) The directing of land disturbing activities and development away from environmentally sensitive areas such as 100-year floodplains, low-lying areas, etc
- 4) Maximum preservation of natural area supplemented by the above

(D) The remaining open space of developed property 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 as 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. All subdivision plats, site plans, and other documents shall detail the exact location and boundaries of the open space and non-disturbed area.

(E) Vegetative buffers of 100 feet will be required on perennial waters.

ARTICLE VIII – DENSITY AND BUILT-UPON GUIDELINES

Section 800. Density.

Within the Stem watershed area, there will be single family residential development projects designed to meet the lot size/density/built-upon area requirements for the watershed area (See Article V). In order to meet lot size requirements only, the minimum square footage required to meet these requirements shall not include any road right-of-way areas, access easements, travelways, or other similar areas. In order to meet density (i.e. dwelling unit per acre) or built-upon area requirements, built-upon area calculations shall include the entirety of any roadway right-of-way areas, access easements, travelways, and other similar areas.

Section 801. Built-Upon Areas.

Within the Stem watershed area, there will be multi-family, cluster residential and non-residential development projects designed to meet the built-upon area requirements for the respective watershed areas (See Article V). In order to meet these built-upon area requirements, the built-upon areas shall include the entirety of any road right-of-way areas, access easements, travelways, and other similar areas.

Section 802. Built-Upon Areas Design Requirements.

(A) All proposed site plans/plats for development projects proposed under the built-upon provisions of this Ordinance shall be drawn and designed by a registered land surveyor, a certified landscape architect, or an engineer.

(B) All site plans/plats shall be submitted on a recent boundary survey of the entire tract, unless otherwise approved by the Watershed Administrator, showing the bearings, distances, closures, and total acreage of the tract.

(C) All site plans/plats shall be prepared in accordance with the recordation requirements of the Granville County Register of Deeds office and shall be recorded following final approval.

- (D) All site plans/plats shall also include the following information:
- a north arrow;
 - a graphic scale;
 - a vicinity map with the project sited;
 - the owner's name;
 - the name of the project;
 - the date of the original plat preparation and any revisions;
 - the names of adjoining property owners;
 - the name and address of the registered land surveyor, engineer, and/or landscape architect responsible for the preparation;
 - the watershed area in which the property is located;
 - the depiction and numerical summarization of the total built-upon area with relative accuracy if the property is developed with multi-family, cluster residential, or non-residential uses;
 - the location of all existing and proposed (if known) buildings and/or structures, including signs, fences, and other similar objects with relative accuracy;
 - the location of any parking, equipment, material, recreation storage, floodplain, and other similar areas;

- the names and/or location of all existing and proposed streets, culverts, water courses, underground electrical lines, water and sewer pipes, and other similar utilities;
- the location of all existing (with deed references) and proposed easements of any type;
- the approximate location of any existing and/or proposed buffer and/or reserved, open space, non-disturbed area;
- any other information required by the watershed Administrator and/or the Watershed Review Board

(E) All site plans/plats and supporting documentation shall also note, in percentage and acreage for the particular project, the maximum allowable built-upon area in the watershed area, the actual proposed built-upon area, and the reserved, open space, non-disturbed area. Supporting documentation shall also include plans to minimize storm water runoff impact to the receiving waters and minimize storm water flow. These plans should be included in the application and will be considered as part of the final approval, as amended.

Designs to limit runoff impact should include:

- 1) The creation of grass swales (berms) between built-upon areas and receiving areas
- 2) The placement of vegetative buffers, rock-check dams, and other controls between the built upon areas and storm water receiving areas
- 3) The directing of land disturbing activities and development away from environmentally sensitive areas such as 100-year floodplains, low-lying areas, etc
- 4) Maximum preservation of natural area supplemented by the above

(F) All final approved site plans/plats shall include the above information and also include the following note:

DEVELOPMENT RESTRICTIONS

WARNING: The development project as detailed on this site plan/plat was designed to meet the built-upon and open space requirements of the Watershed Protection Ordinance of the Town of Stem. Any further subdivision, development, construction, use, or increase in built-upon area of the property detailed hereon shall not be allowed unless approved by the Town of Stem under the provisions of that same Ordinance. This site plan is approved for recording in the Granville County Register of Deeds Office.

Date	Watershed Administrator or Mayor, Town of Stem Watershed Review Board Stem, North Carolina
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(G) Following final approval, all development projects approved under the provisions of this Ordinance shall be constructed according to the approved site plan/plat. Any change, modification, addition, new use, or increase in built-upon area shall not be allowed unless a revised site plan/plat is presented and approved under the provisions of this Ordinance.

ARTICLE IX – WATERSHED REVIEW BOARD

Section 900. Establishment of Watershed Review Board.

There shall be and hereby is established and created the Watershed Review Board of the Town of Stem. The Stem Watershed Review Board shall consist of the five (5) elected members of the Town Board of Commissioners and the Mayor of Stem. Members of the Watershed Review Board shall be elected and shall serve terms in the same manner as outlined for the Commissioners and Mayor. The initial members of the Watershed Review Board shall be the current members of the Town Board at the time of the adoption of this Ordinance and the terms of office and service shall coincide with the existing terms of the Town Board and Mayor.

Section 901. Rules of Conduct for Members.

Members of the Board shall abide by the following rules:

(A) 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.

(B) No Board member shall take part in the hearing, consideration, or determination of any case in which he is personally or financially interested. A Board member shall have a “financial interest” in a case when a decision in the case will: 1) cause him or his spouse to experience a direct financial benefit or loss, or 2) will cause a business in which he or his spouse owns a ten percent (10%) 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 immediate family (i.e. parent, spouse, or child).

(C) No Board member shall discuss any case with any parties thereto prior to the public hearing of that case; provide, 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.

(D) Members of the Board shall not express individual opinions on the proper judgement of any case prior to its public hearing and discussion on that case.

(E) 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.

(F) No Board member shall vote on any matter that decides an application of appeal unless he had attended the public hearing that application of appeal.

Section 902. 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 Ordinance.

(B) Variances. The Watershed Review Board 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. The spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. In addition, Stem shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed and the entity using the water supply where the variance is being considered.

- 1) Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:
 - a. A site plan, drawn to a scale of at least one (1) inch to one hundred (100) feet, indicating the property lines of a parcel upon which the variance 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 the original drawing, and an accurate record of any later revisions.
 - b. 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 Review Board in considering the application.
 - c. The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply. 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) Before the Watershed Review Board 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:
 - a. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:
 - i. If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of his property. Merely providing that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.
 - ii. The hardship results from the application of the Ordinance 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 this Ordinance, or who purchases the property after the effective date of the Ordinance, 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 Ordinance 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.
- 3) In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed development, building, structure, or use as it may deem advisable in furtherance of the purpose of this Ordinance. If a variance for 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 that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
 - 5) If the application calls for the granting of a major variance, and if the Watershed Review Board decided in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of hearing shall include:
 - a. The variance application;
 - b. The hearing notices;
 - c. The evidence presented;
 - d. Motions, offers of proof, objections to the evidence, and rulings on them;
 - e. Proposed findings and exceptions;
 - f. The proposed decision, including all conditions proposed to be added to the permit.

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 (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) 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 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 (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

(C) The Watershed Review Board shall approve, disapprove, or conditionally approve subdivision plats which the Watershed Administrator presents for its review and final action (See Article IV).

(D) The Watershed Review Board may also grant approval for any proposed development involving built-upon areas and the associated guidelines which the Watershed Administrator presents for its review and final action. The Board shall grant approval for all proposed projects under the BONUS DEVELOPMENT provisions of this Ordinance.

(E) The Watershed Review Board shall also be responsible for any other duties delegated to it by this Ordinance.

Section 903. 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. The decisions by the Superior Court will be in the manner of certiorari.

ARTICLE X – ADMINISTRATION, ENFORCEMENT, AND APPEALS

Section 1000. Watershed Administrator and Duties Thereof.

There shall be appointed a Town of Stem Watershed Administrator who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this Ordinance as follows:

(A) The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. Watershed Protection Permits shall be valid for a period of six months from the date of issuance. 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 shall keep records of all amendments to the Watershed Protection Ordinance and shall provide copies of all amendments upon adoption to the Division of Water Quality.

(C) The Watershed Administrator shall keep records of the jurisdiction's utilization of the provision that a maximum of ten percent (10%) of the WS-II-BW watershed may be developed to a maximum of seventy percent (70%) built-upon surface area. Records for the watershed shall include the total acres of the general watershed area, total acres eligible to be developed under this option, total acres approved for this development option, the balance of the remaining acreage available, and individual records for each project with the following information: location, acres, site plan, use, storm water management plan as applicable, and inventory of hazardous materials as applicable.

(D) The Watershed Administrator is granted the authority to administer and enforce the provisions of this Ordinance, exercising in the fulfillment of his responsibility the full police power of the Town of Stem. 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 Ordinance.

(E) The Watershed Administrator shall keep a record of variance to the local Water Supply Watershed Protection Ordinance. This record shall be submitted each calendar year to the Division of Water Quality on or before January 1st of the following calendar year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

Section 1001. Remedies.

(A) If the Watershed Administrator finds that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action(s) necessary to correct it. He 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 ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned the aggrieved party or parties may appeal such ruling to the Watershed Review Board.

(B) If any subdivision, development and/or land use is found to be in violation of this Ordinance, the Stem 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 \$100.00, 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. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. 143-215.6 (a). Each day that the violation continues shall constitute a separate offense.

Section 1002. Criminal Penalties.

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

Section 1003. Appeal from the Watershed Administrator

(A) Any order, requirement, decision, or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board. The Watershed Administrator may also refer any item to the Watershed Review Board for its review, oversight, and/or recommendation.

(B) An appeal from 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 action appealed from was taken.

(C) An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion 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 or record on application of notice of the officer from whom the appeal is taken and upon due cause shown.

(D) 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.

**ARTICLE XI – AMENDMENTS TO THE WATERSHED
PROTECTION ORDINANCE AND WATERSHED MAP**

Section 1100. Guidelines.

The stem Board of Commissioners may, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.

(A) Requests for text or map changes may be submitted by an interested party. The Stem Board of Commissioners may also submit petitions and shall be exempted from any related fees.

(B) Petitions to amend the Ordinance or Map shall be presented to the Watershed Administrator for review and recommendation at least fifteen (15) working days prior to being considered by the Board of Commissioners. Each petition shall fully explain the text or map amendment and appropriate documentation should be submitted detailing the request.

(C) Once the Board of Commissioners receives an application, it shall have sixty (60) days to consider the petition and ninety (90) days to reach a final decision. Failure to meet either of these deadlines shall be deemed as denial of the request.

(D) Under no circumstances shall the Board adopt such amendments, supplements, or changes that would cause this Ordinance to violate the watershed protection rules as adopted by the North Carolina Environmental Management Commission. All amendments must be filed with the North Carolina Division of Water Quality, North Carolina Division of Environmental Health, and the North Carolina Division of Community Assistance.

Section 1102. Public Notice and Hearing Required.

(A) Before adopting or amending this Ordinance, 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 successive calendar weeks in a newspaper having general circulation in the County. The notice shall state the nature of the request and shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date of the hearing.

(B) Before amending the Watershed Map, 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 successive calendar weeks in a newspaper having general circulation in the County. The notice shall state the nature of the request and shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date of the hearing.

(C) Prior to the public hearing on a map change, the Secretary or Watershed Administrator shall be responsible for notifying the owner of the parcel of land for which the request is made and all owners of parcels of land abutting that parcel as shown on the County tax records. Notification shall be by first-class mail to the last available addresses on the County tax records and shall reasonably describe the requested change.

(D) Any text or map change which is denied by the Board of Commissioners shall require a twelve (12) month waiting period before a new petition requesting the same change may be submitted.

ARTICLE XII – DEFINITIONS

Section 1200. General Definitions.

Accessory Building. A detached subordinate structure located on the same property as a principal structure and is incidental to that principal structure.

Accessory Use. A use of property located on that same property as a principal use and is incidental to that principal use.

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

Allowed Uses. Uses which are allowed to be located on property based on adherence to the requirements of this Ordinance and on the issuance of a Watershed Protection Permit by the Watershed Administrator. (A Watershed Protection Permit from the Watershed Administrator is not required for agricultural, silviculture, and transportation purposes, unless otherwise noted.)

Animal Unit. A unit of measurement developed by the U. S. Environmental Protection Agency that is used to compare different types of animal operations.

Best Management Practices (BMP). See Stormwater Control Measure

Board of Commissioners. The governing body of Stem, the Stem Board of Commissioners.

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, either temporary or permanent, having a roof or covering supported by columns, posts, or by walls and intended for shelter, housing, or enclosure of persons, animals, or property. The connection of two buildings by means of a porch, breezeway, passageway, carport, or other such structure, with or without a roof, shall not be deemed to make them one 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, structures, pavement concrete, gravel roads, vehicle parking areas and travelways, compacted soils, sidewalks, recreational facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of swimming pools and water bodies 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 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 development.

Customary Home Occupations. Any use conducted within a dwelling or an accessory building and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof.

Developer. The owner, representative, or applicant who proposes to construct, build, use, or subdivide property.

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 or precipitation into the soil.

Discharging Landfill. A facility with liners, monitoring equipment, and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

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 (G.S. 153A-344.1 and G.S. 160A-385.1), or
- (3) having expended substantial resources (time, labor, money) and 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 was part of a subdivision of land for which a plat has been legally recorded in the Office of the Register of Deeds prior to the adoption of this Ordinance, or a lot for which a deed describing a piece of property by metes and bounds was legally recorded based on the Town of Stem's Ordinances 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.

Hazardous Material. Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

Impervious Cover of Surface. Area through which the natural infiltration of water is prevented by amenities located on the property. The same as Built-upon Area for the purposes of this Ordinance.

Industrial Development. Any non-residential development that requires an NPOES permit for an industrial discharge and/or requires that use of 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 North Carolina General Statutes. For the purpose of this Ordinance this term does not include composting facilities.

Lot. A legally defined 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.

Lot Size. The size of a parcel of land enclosed within the boundaries formed by the property lines and not including any areas within right-of-ways or access easements.

Major Variance. A variance that results in any one or more of the following:

- (1) the complete waiver of a management requirement;
- (2) the relaxation, by a factor of more than ten (10) percent, of any management requirement that takes the form of a numerical standard.

Minor Variance. A variance that does not qualify as a major variance.

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.

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.

Runoff treatment: The volume of stormwater runoff generated from all of the built-upon area of a project at build-out during a storm of the required storm depth is treated in one or more primary SCMs or a combination of Primary and Secondary SCMs that provides equal or better treatment.

Runoff volume match: The annual runoff volume after development shall not be more than ten percent higher than the annual runoff volume before development.

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) 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.

Stormwater Control Measure or SCM: also known as "Best Management Practice" or "BMP," means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration, or to mimic the natural hydrologic cycle by

promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof.

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

Subdivision. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include

all division of land involving the dedication of a new street or a change in existing streets. The following shall not be included with this definition nor be subject to the regulations authorized by this ordinance:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance;
- (2) The division of land into parcels greater than 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 in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this ordinance;
- (5) 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 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 Review Board relaxing or waiving a water supply watershed management requirement adopted by the 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 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 town responsible for administration and enforcement of this ordinance.