

STREAMLINES

A NEWSLETTER FOR NORTH CAROLINA WATER SUPPLY WATERSHED ADMINISTRATORS

LOCAL GOVERNMENT ASSISTANCE UNIT * N.C. DIVISION OF WATER QUALITY

THE 10/70 DEVELOPMENT OPTION OF THE WATER SUPPLY WATERSHED PROTECTION PROGRAM

Water supply watershed protection rules became effective on August 3, 1992. Local governments having land use jurisdiction within a WS-II or WS-III water supply watershed were allowed to adopt an ordinance that incorporated a "5 percent/70 percent" provision. Local governments could take a maximum of 5 percent of their jurisdiction in the watershed outside of the critical area as delineated on July 1, 1993 and allow new development at up to 70 percent built-upon area (BUA).

The History of 5/70

When the water supply watershed protection rules were first being developed, it was realized that development restrictions might interfere with locating certain facilities that are critical to a community within a water supply watershed. It was reasoned that projects such as schools, hospitals, fire stations and other public facilities that typically use larger amounts of BUA should be given

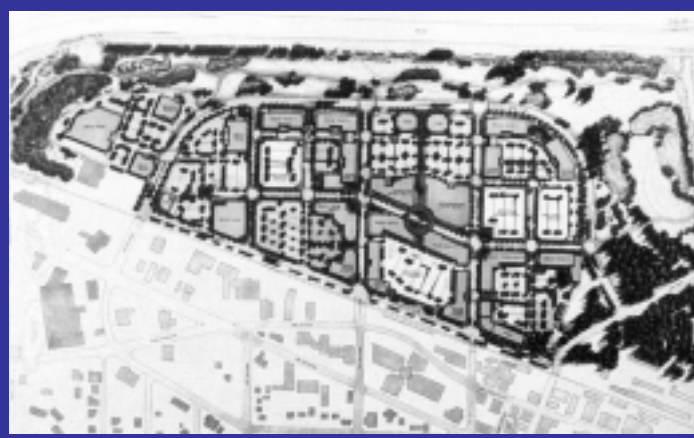
special consideration. The rules that were adopted allowed local governments the choice to adopt

2) local governments within the water supply watershed were authorized to transfer, in whole

or in part, their rights to land area in the same watershed to another local government;

3) public lands, such as National Forest land, within the watershed were allowed to be counted towards the calculation of the land available for 10/70 use; and

4) the 10/70 option was made available to local governments within WS-IV water supplies that only allow low-density development.



This site plan illustrates the requirements of a 10/70 project: the development is located away from environmental features; the BUA is minimized; stormwater is directed away from surface waters; best management practices are used to minimize water quality impacts; and the remainder of the tract is designated as permanent open space..

the 5/70 development option to provide additional flexibility for implementing the water supply watershed protection rules.

In 1995, the water supply watershed protection rules were amended to allow more flexibility and clarification. One of the amendments affected the 5/70 rule. The revisions that affected this rule were:

1) the 5/70 option was changed to 10/70. Note, this change is an option, and local governments are not required to increase from 5 percent to 10 percent;

Annexing or Trading Acreage

Please keep in mind that if a local government annexes an area, the amount of land available for 10/70 use does not change. A local government can not increase the amount of land available unless another local government in the same watershed gives, trades or sells their right. For this to occur, a joint resolution from the local governments must first be sent to the Division of Water Quality requesting the transfer of rights and noting the amount of land area to be transferred. The Environmental Management Commission or the Water Quality Committee of

(See 10/70 on page 2)

INSIDE THIS ISSUE:

The 10/70 Option	1
Granville County	2
Listserve	3
What's Happening? Did you know?	4

The 10/70 Rule Language

The rule for WS-III water supplies states:

"A maximum of 10 percent of each jurisdiction's portion of the watershed, outside of the critical area as delineated on July 1, 1993, may be developed with new development projects and expansions of existing development of up to 70 percent built-upon surface area in addition to the new development approved in compliance with the appropriate requirements of Sub-Item (3)(b)(i)(A) or Sub-Item (3)(b)(i)(B) of this Rules. For expansions to existing development, the existing BUA is not counted toward the allowed 70 percent built-upon surface area. A local government having jurisdiction within the watershed may transfer, in whole or in part, its right to the 10-percent/70-percent land area to another local government with the watershed upon submittal of a joint resolution and review by the Commission. When the water supply watershed is composed of public lands, such as National Forest land, local governments may count the public land acreage within the watershed outside of the critical area in figuring the acreage allowed under this provision.

"Local governments that do not choose to use the high density option in that WS-III watershed, each project must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater runoff away from surface waters, and incorporate best management practices to minimize water quality impacts; if the local government selects the high density development option within that WS-III watershed, then engineered stormwater controls must be employed for the new development."

The references to Sub-Items (3)(b)(i)(A) and (3)(b)(i)(B) refer to the low and high density development requirements respectively. The rule is identical for WS-II water supplies except the Sub-Items refer to the density restrictions applicable to WS-II water supplies.

The option is different for WS-IV water supplies and is only available to those local governments that allow low-density development. The other distinction for WS-IV water supplies is that local governments that choose to incorporate the 10/70 option in their ordinance must calculate the land area based on the amount of land within their jurisdiction within the watershed outside of the critical area as of July 1, 1995.

The Use of 10/70 in Granville County

The water supply watershed protection ordinance for Granville County, known as the Land Development Ordinance, includes the 10/70 option allowed under the state's Water Supply Watershed Protection Rules as a "Special Intensity Bonus Development Allocation" (SIBDA). This provision allows the county to allocate 10 percent of its water supply watershed area outside of the critical area to be developed up to 70 percent built-upon area (BUA). The SIBDA is granted by the Board of Commissioners based on an application for a non-residential project, which is zoned for non-residential uses at the time of application.

Since there is a limited 10/70 allocation available, and valuable property rights are gained from the granting of a SIBDA, the Board of Commissioners determined that a fee should be charged to the applicant. Upon approval by the Board, the fee is collected at 10 cents per square foot of additional BUA gained due to the SIBDA allocation. An example would be if a 10-acre site in WS-IV-PA was originally capped at 24 percent BUA, allowing 2.4 acres or 104,544.4 square feet of BUA. The granting of the SIBDA would allow 7 acres or 304,921.2 square feet. The difference being an additional 200,376.8 square feet at a fee of 10 cents per square foot, requiring payment of \$20,037.68. The county charges the total fee, regardless of how much an applicant intends to use the additional BUA allowed by the SIBDA. The revenue goes to a capital outlay revenue account for county open space and public parks development projects.

The SIBDA is noted in the county's Geographic Information System Land Records System that includes the county's Land Development Ordinance data layers for permanent records. The SIBDA runs with the recorded parcel boundary or is subdivided into a separate lot of record if only a portion of the tract will be used. SIBDAs are not granted to individuals but to the recorded parcel. Less than 5 percent of the available SIBDA allocation area is used to-date and approximately \$35,000 has been collected from SIBDA allocations granted for the past two fiscal years.

Thank you to Danny Johnson, planning director of Granville County, for providing this example. He can be reached at 919-603-1331 for questions.

10/70 (Continued from page 1)

the EMC will consider and reply to the request.

Development Requirements

It is important to note that projects using the 10/70 development option are required to minimize built-upon surface area, direct stormwater runoff away from surface waters and incorporate best management practices to minimize water quality impacts. This means that stormwater should not be captured and piped directly from the impervious surface areas to surface waters.

Examples of best management practices include such things as locating the BUA away from the sur-

face waters, incorporating grass swales to disperse stormwater runoff, or adding engineered stormwater controls such as bio-retention cells. Remember though that if an ordinance contains provisions for both the high-density development option and the 10/70 option, any project using the 10/70 must incorporate engineered stormwater control devices, such as wet detention basins, into the project.

Projects using the 10/70 option are required to maintain buffers along waters that appear as solid blue lines on the most recent version of the U.S. Geological Survey topographical maps. The

size of the buffer for 10/70 projects is 100 feet on either side of the perennial waters. A local government can also adopt and implement more protective measures, such as applying buffers to all perennial and intermittent surface waters, and requiring an undisturbed buffer.

Tracking Available 10/70 Acreage

If a local government chooses to allow the 10/70 option, accurate records must be maintained. Methods of record keeping include an electronic spreadsheet or a simple ledger. The records should include the name of the project, location (tax map number or street address), amount of BUA, amount of acreage of the project, a summation of the land that has already been granted use of the 10/70, and the amount that is still available until the acreage is exhausted. Each time a project is approved for using this option, the amount of land for the entire project is removed from the total amount that was available.

For example, if a 75-acre project using the 10/70 develops at 50 percent BUA and the local government had 386 acres available under the rule, then 311 acres remain (386 acres minus 75 acres). The project would be allowed to expand up to 70 percent BUA.

REMEMBER



The total acreage allowed for 10/70 use by any local government was set on July 1, 1993. Ten percent of the land within the municipal/county jurisdiction outside the critical area as of that date, is allowed to develop to 70 percent BUA. The allocated amount in 1993 holds true today. Incorporations, annexations, land acquisitions, etc. do not change this number. Only approved joint resolutions will change the allocation.

It is prudent to allow the use of the 10%/70% for projects that are not going to “waste” the allocation. Typically industrial, commercial or institutional projects benefit more than residential. Some local governments recognize this and have specifically limited the use of the 10/70 to those types of projects, like schools, churches, fire stations and libraries.



Ideas for Ways to Allocate 10/70 Acreage

If a local government chooses to implement the 10/70 option, it may decide how to disperse the use of the land area available. Some of the possibilities are:

- 1) first come, first serve;
- 2) zone or delineate an area to the size of the amount of land available in the jurisdiction for a specific use, such as an industrial park;
- 3) limit the use of 10/70 to certain types of development, such as public facilities or tourist related development;
- 4) base the disbursement on a rating system. If a project has certain qualities that give it a high enough rating, then it qualifies; and
- 5) unique solutions tailored to a specific community.

Examples of Unique Solutions

Unique solutions have been used to meet program guidelines.

The Town of Kernersville established guidelines that the project

would need to enhance the tax base, provide orderly development, promote the downtown, provide revitalization of existing development and the development of an efficient road system.

Davie County requires that the project be zoned for industrial, commercial, public or non-profit, educational or serves as a significant economic development.

The City of King bases its decision on factors such as gross monthly sales, number of full-time employees, tax base, water and sewer demand.

Granville County uses a “Special Intensity Bonus Development Allocation.” In general, Granville charges for the use of the 10/70 allocation based on the amount of BUA. The money is then used for capital improvements, public recreation and the purchase of open space. More details of this program are in the inset.

Thank you to Steve Zoufaly of the Local Government Assistance Unit for writing this article.

** SIGN UP FOR OUR LISTSERVE **

- To better serve local governments, the Local Government Assistance Unit has set-up a listserve. We plan to use the listserve to send out future issues of *Streamlines*, possible rule interpretations, reminders and other relevant updates.
- Please send an email to steve.zoufaly@ncmail.net with your request to be added to the listserve and preferred email address. You may also call Steve at 919-733-5083 x566 with questions or concerns.
- We hope to have this up and running as soon as possible. Thank you for your interest and help in making this happen.

A Newsletter for North Carolina
Water Supply Watershed
Administrators

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Raleigh, NC 27699-1617

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Address Correction
Requested

Check us out at: <http://h2o.enr.state.nc.us/wswp/>



Due to budget constraints, Streamlines may not be mailed out in the future. Please continue to look for it at: <http://h2o.enr.state.nc.us/wswp/>. Streamlines is published quarterly in January, April, July and October.

WHAT'S HAPPENING?

Environmental Management Commission

February 14, March 14, April 11
Archdale Building, Raleigh
The Water Quality Committee meets the day previous to every EMC meeting.
<http://h2o.enr.state.nc.us/admin/emc/>

Reclassification Hearings

- Swift Creek from class C Nutrient Sensitive Waters (NSW) to C Outstanding Resource Waters (ORW) NSW, Nash County, in February
 - New River from class tidal salt waters C (SC) & SC NSW to tidal salt waters A (SA) High Quality Waters (HQW) & SA, Onslow County, Spring
 - Little Tennessee River from class C to B, Macon and Swain counties, in May
- Contact: Elizabeth Kountis, 919-733-5083 x369

River Basin Meetings

Workshops or public hearings for the River Basin Planning Program will be held in the Chowan, Pasquotank, Neuse and Yadkin-Pee Dee River Basins this winter and early spring. Check their website for details: http://h2o.enr.state.nc.us/basinwide/meetings_by_month.htm

Southeastern Lakes Management Society Conference

March 18-20, Winston-Salem
Contact: Barbara Wiggins, 828-254-5644

DID YOU KNOW?

The Water Supply Watershed Protection Rules call for local watershed administrators to send the Division of Water Quality's Local Government Assistance Unit a description of all locally-approved minor variances to their Water Supply Watershed Protection Ordinance by January 1 on an annual basis. This description should include a summary of the project and the reason for granting the variance. Please note that January 1 has already passed, so any outstanding summaries should be sent as soon as possible. Thank you to the communities that have already sent these annual descriptions.

Whenever a local government revises its Water Supply Watershed Protection Ordinance, a copy of the revisions should be sent to the Local Government Assistance Unit. It is also a good idea to check with the Unit to see whether the planned revisions will require state approval by the Water Quality Committee before proceeding with local adoption and implementation.

The use of the 10/70 option requires the development project to provide 100-foot buffers on all perennial streams shown on the USGS topographic maps. Stormwater BMPs are also required if the community provides the high density development option in its ordinance.

The Local Government Assistance Unit has a new State Environmental Protection Act coordinator. Todd Kennedy joined us in December. Todd can be reached at 919-733-5083 x555 or j.todd.kennedy@ncmail.net.

