

What Regulations Affect Land Disturbing, Land Clearing, Development, and Construction Projects?

Developing in the western North Carolina mountains can be difficult because of steep slopes, soils, geology, changing weather conditions, access issues, and water. This publication will help you identify what regulations may affect your project and what permits and plans you may need.



This publication was commissioned by the Haywood County Board of Commissioners. Its purpose is to provide the public with a consolidated source of information and guidance for real estate development projects and land disturbing activities. The publication was created by Haywood Waterways Association with assistance from the Haywood Soil and Water Conservation District, the Haywood County Planning Office and the Haywood County Erosion Control Program.

Additional copies of “What Regulations Affect Land Disturbing, Land Clearing, Development, and Construction Projects?” are available by calling the Haywood County Planning Office, 828-452-663

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What Regulations Affect Land Disturbing, Land Clearing, Development, and Construction Projects?

Knowing your legal obligations before disturbing land, clearing land, changing the natural cover and/or topography of land for such activities as road building, home building, commercial development and real estate development makes any project easier, less expensive, and generally quicker to build. You should always obtain the necessary information and permits before starting work. Some activities require multiple permits even for one location, such as a building site that is: (1) near a trout stream or tributary, (2) in a flood prone area, and (3) in a public water supply watershed...one site with three different regulated issues before digging begins.

Developing in the western North Carolina mountains can be difficult because of a wide variety of weather conditions, steep slopes, erodible soils, unstable soils, specific geologic conditions, access issues, and special waterway classifications. This publication will help you identify what regulations may affect you and what permits and plans you may need. The three main sections are:

- I. The primary regulations that affect any land disturbing, land clearing, development and construction project,
- II. Other regulations that may affect your project, and
- III. Contact information for permits and technical assistance.

To use this publication, follow the list of questions and read those that are applicable to your project. Good planning can save you money by avoiding delays, unexpected changes, additional planning, extra cash outlays, and fines for non-compliance.

Regulations and ordinances guiding land disturbing, land clearing, construction, and development projects can be categorized as those that focus on off-site impacts, on-site impacts to natural resources, and those that address layout, design, and construction of the project. Off-site impacts typically relate to sediment damage and water quality concerns off of the project site. On-site impacts refer to sediment or other pollutants entering any stream, spring, creek, branch, river, pond or other natural resource which can degrade the water source either on or off site.

The Sedimentation Pollution Control Act of 1973 is North Carolina's legislation that establishes basic control objectives and serves as the model for local governments who adopt erosion control regulations. The objective of the Act is that, "Persons conducting land-disturbing activities shall take all reasonable measures to prevent damage to public and private property resulting from those activities." There are mandatory requirements that apply to all surface disturbing activities not exempt from regulation under the Federal Clean Water Act.

Disclaimer: This document basically applies to regulations in the unincorporated areas of Haywood County. Municipal ordinances may follow the county or state regulations, and in some cases, the state or federal government may enforce issues in their jurisdiction within the towns. Contact your local planning office for more information if your project is in one of the towns. This publication is also not intended to replace the reader's responsibility to know and understand the full text of all applicable land use laws, regulations and ordinances. For greater detail on specific requirements, contact the agencies listed in this document or visit the County's website at www.haywoodnc.net to find a list of all ordinances. This publication also focuses only on a limited number of regulations. Depending upon your development activity, there may be other land use regulations that apply. They can be found at the end of this document or through contacting the appropriate agency.

Section I. Primary Regulations

The questions below will guide you through the primary laws, regulations and ordinances that control land disturbing, land clearing, development and construction activities:

1. Are you disturbing, clearing or developing land?

Any use of land by any person for residential, industrial, educational, institutional, or commercial development, and highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation (including land clearing work that removes vegetation from any size area) must take all the necessary precautions to keep sediment on the site. All precautions must also be taken to prevent sediment damage to adjoining public or private properties and any natural resources. All work that uncovers one-half or more acres must have an Erosion and Sediment Control Plan reviewed by the Haywood Soil and Water Conservation District and approved by the Haywood County Erosion Control Program. The plan must be filed at least 30 days before your project begins. Specifications for the plan can be found in *Chapter 154: Erosion and Sediment Control* of the Haywood County Code of Ordinances. Within the Erosion and Sediment Control ordinance are regulations for establishing ground cover, controlling erosion and sedimentation, plan requirements, storm water runoff control, short-term and long-term maintenance requirements and responsibility for land-disturbing activities.

If you are disturbing less than one-half acre of land, a Land Disturbing Permit is required for any house site (either by construction or placement of a trailer) or commercial site that is subject to a permit from the Building Inspections Office. For more information on Erosion and Sediment Control Plans and Land Disturbing Permits, contact the Haywood Erosion Control Program: Haywood County Annex II, 1233 North Main Street Waynesville, NC 28786, 828-452-6706.



Sediment in streams indicates a landowner upstream is losing their land. If the landowner is a farmer, it also means reduced agricultural productivity. Sediment can destroy aquatic animals and their habitat, fill in your favorite fishing hole, clog drainage pipes, clog intake pipes for water treatment plants, increase the cost of water treatment (which means higher water bills), and reduces the aesthetic value of the waterway.



Methods to control erosion and sedimentation only work as long as they are maintained. Maintenance is a key element and legal obligation of all Erosion and Sediment Control Plans.

2. Are you disturbing or clearing land where an erosion and sediment control plan is required, and the area is over two acres, and impervious surfaces will cover over 50% of the acreage?

You must obtain a storm water runoff permit from the Erosion Control Program and submit a Storm Water Drainage Plan. Contact the Haywood Erosion Control Program for more information: Haywood County Annex II, 1233 North Main Street Waynesville, NC 28786, 828-452-6706. *Haywood County Code of Ordinances, Chapter 154: Erosion and Sediment Control*

3. Are you disturbing or clearing one acre of land or more?

Upon approval of your erosion and sediment control plan by the Haywood County Erosion Control Program, you will automatically be issued a National Pollutant Discharge Elimination System Storm Water Discharge Permit for Construction Activities (General Permit No. NCG010000) from the NC Department of Environment and Natural Resources, Environmental Management Commission. This permit to discharge storm water from your construction site is valid as long as your site remains compliant with the erosion and sediment control plan. There are several stipulations when granted a permit, including those for inspections, if you are near a 303(d) listed impaired stream, what to do during and after a storm, record keeping, maintenance of erosion control devices and construction equipment, fertilizers, pesticides, and waste. For more information, contact the Erosion Control Program at Haywood County Annex II, 1233 North Main Street Waynesville, NC 28786, 828-452-6706 or the Environmental Management Commission at 512 North Salisbury Street, Raleigh, NC 27604, Phone: 919-733-7015. A complete list of 303(d) listed streams can be found at <http://h2o.enr.state.nc.us/su/construction303d>.

4. Are you disturbing an area of land 5 acres or greater?

In addition to the permitting and plan criteria in questions 1 to 3, you must also post a security bond. *Haywood County Code of Ordinances, Chapter 154: Erosion and Sediment Control*

5. Are you planning to build a subdivision?

A final plat must be approved by the Haywood County Planning Department before recording in the Register of Deeds office and receiving a building permit. You must submit a copy of your erosion and sediment control plan and a statement from Haywood County Erosion Control Program that the plan has been submitted and approved. Additional requirements and guidelines apply for roads, cul-de-sacs, names, public utilities and facilities, permanent reference points, grading, preparation, cuts, fill, storm water drainage, methods for guaranteeing improvement, and rules for variance requests. Contact the Haywood County Planning Department for more information, Haywood County Annex II, 1233 North Main Street Waynesville, NC 28786, 828-452-6632. *Haywood County Code of Ordinances, Chapter 152A: Subdivision and Pre-Development Ordinance, Chapter 90: Addressing and Road Naming*



Following the Erosion and Sediment Control Plan is critical for reducing erosion and keeping soil on site.

6. Are you building a road?

If it is a temporary access and haul road constructed or used in connection with any land-disturbing activity, it shall be included as part of the land-disturbing activity and subsequently included under the applicable regulatory requirements. Contact the Haywood Erosion Control Program for more information: Haywood County Annex II, 1233 North Main Street Waynesville, NC 28786, 828-452-6706. *Haywood County Code of Ordinances, Chapter 154: Erosion and Sediment Control*

If it is part of a subdivision, it should be coordinated with the existing road system of the surrounding area. Private roads may be platted in any subdivision and shall conform to the standards set forth in Chapter 152A: Subdivision and Pre-Development Ordinance. Private roads shall be set out in protective covenants, deeds, or on plats or any combination of those methods, and shall state that the State and/or County will not be obligated to maintain the road.

Public subdivision roads shall be built to minimum construction standards for the NC Department of Transportation as outlined in NC Division of Highways Subdivision Roads Minimum Construction Standards. If a new subdivision road will connect to a state system road, a driveway connection permit may be required from the Division of Highways before beginning construction.

The Subdivision and Pre-Development Ordinance also sets road restrictions on names, signs, flood damage and prevention, width, cul-de-sacs, grading, and if the subdivision is a major or minor subdivision. For more information, contact the Haywood County Planning Department, Haywood County Annex II, 1233 North Main Street Waynesville, NC 28786, 828-452-6632. *Haywood County Code of Ordinances, Chapter 152A: Subdivision and Pre-Development Ordinance, Chapter 90: Addressing and Road Naming*

7. Is your project within a covenanted subdivision?

Many subdivisions in Haywood County are governed by property owner associations. Activities within the development are guided by covenants and by-laws. Some of the provisions of the covenants and by-laws may address road building and home site construction. These provisions are created by deed terms and not by local or state regulation. They are enforced by litigation in civil court. Any lot owner in an Association has standing to initiate such a suit. It is important to obtain copies of the covenants and latest version of the by-laws and related policies to ensure that any proposed construction and land clearing is consistent with these requirements.



Inadequate planning and construction can lead to potentially expensive and disastrous consequences.

8. Is your project adjacent to any water body?

These areas require special attention to protect water quality, and the requirements include providing a “buffer zone” between the development activity and the water body. All visible siltation must be retained within the 25% of the buffer zone nearest the land disturbing activity. *Haywood County Code of Ordinances, Chapter 154: Erosion and Sediment Control*

In addition, the NC Division of Water Quality has regulations for water clarity, or **turbidity**. These regulations are designed to prevent or limit decreases in water clarity from your activity. Land-disturbing activities occurring on, over or under a lake or natural watercourse must be performed in a manner to minimize the extent and duration of disturbance to the water channel. Work of this type is within federal jurisdiction and must be permitted by the United States Army Corps of Engineers and the NC Division of Water Quality.

8a. Is the waterbody a designated trout stream?

Waters that have been classified as Trout Waters (Tr) by the NC Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the 25% of the buffer zone nearest the land disturbing activity, whichever is greater. This includes **all tributaries** to classified trout waters. This classification is different from the Public Mountain Trout Waters designation of the NC Wildlife Resources Commission. Be sure to call the Division of Water Quality (919-733-7015) or Wildlife Resources Commission (919-707-0010) to determine what classification your trout stream has, it may even have both. *Haywood County Code of Ordinances, Chapter 154: Erosion and Sediment Control*

Special coordination with the NC Wildlife Resources Commission is required for projects requiring US Army Corps 404 permits and NC Division of Water Quality 401 certifications (see question #10) that occur in Trout Waters. In these cases, the applicant should contact the appropriate Wildlife Resources Commission regional coordinator prior to submitting the application. Contact the Mountain Region Coordinator, 20830 Great Smoky Mountain Expressway, Waynesville, NC 28786, (828) 452-2546.

8b. Is the waterbody a High Quality Water Zone?

You must refer to the state’s stream classification schedule to determine if your project is within one mile and draining to a High Quality Water (HWQ) Zone. If yes, there are additional requirements that apply including the maximum allowable uncovered area, erosion and sediment control measures (must be designed for a 25 year storm), slopes, ground cover, time limits and development density. Review the Guide to Surface Freshwater Classifications in North Carolina table on page 8 for an overview of these requirements. Contact the NC Division of Water Quality to determine if you are in a HWQ Zone. *Haywood County Code of Ordinances, Chapter 154: Erosion and Sediment Control*

9. Is your project occurring within a designated Public Water Supply Watershed?

There are five designated Public Water Supply Watersheds (WS): Jonathan Creek (WS III), Campbell Creek (WS III), Pigeon (WS III), Rough Creek (WS I), and Allens Creek (WS I). See page 9 for the general location of the Public Water Supply Watersheds in Haywood County. Any work, including new construction, additions to existing structures, new paving, additions to existing pavement, or any other impervious surface requires a Watershed Protection Use Permit from the Haywood County Planning Office before work begins. A 30 ft vegetative buffer is required from the top of the bank of all perennial streams that appear on the most recent U.S. Geological Survey topographical map (a USGS map can be viewed at the Haywood County Planning Office). The 30 foot buffer must remain vegetated; however there are certain provisions for stream crossings.

There are also regulations for single-family residential, multi-family residential, commercial and industrial projects. If you are in a WS-I area, no construction is permitted. However, agriculture and silviculture are permitted. You must also obtain a Watershed Protection Occupancy Permit before you can occupy any building. *Haywood County Watershed Protection Ordinance (Authority of North Carolina Water Supply Protection Act of 1989).*

9a. Are you constructing a single-family residence in a Public Water Supply Watershed?

See the watershed map or contact the Haywood County Planning Office to determine if you are in a Public Water Supply Watershed (WS), and if so, what designation of Watershed Area. If you are in a WS-I area, no construction is permitted. If you are not in a WS-I area, are you in a WS-III Watershed Area?

For WS-III: Are you within the Critical Area? The Critical Area is the area within one-half mile from and draining to the intake, or one-half mile from the intake leading to the water treatment plant.

- If yes, you must have a minimum lot size of 1 acre.
 - If you do not meet the minimum lot size requirement, was your lot recorded before January 1, 1994?
 - If yes, you may continue with the project following the 30 ft vegetative buffer requirement.
 - If no, single family residential development is allowed on lots less than 1 acre if the impervious surface coverage of all structures does not exceed 12%.
- If no, you are in the Balance of Watershed and must have a minimum lot size of one-half acre. Single family residential development is allowed on lots less than one-half acre if the impervious surface coverage does not exceed 24%.

Cluster development is allowed in the WS-III area as long as the total number of lots does not exceed the number of lots allowed for a single-family detached development. The remainder of the tract must be in a vegetated state. *Haywood County Watershed Protection Ordinance (Authority of North Carolina Water Supply Protection Act of 1989).*

9b. Are you constructing a multi-family residence, commercial building or industrial building in a Public Water Supply Watershed? *Haywood County Watershed Protection Ordinance (Authority of North Carolina Water Supply Protection Act of 1989).* See the watershed map or contact the Haywood County Planning Office to determine if you are in a Public Water Supply Watershed (WS), and if so, what designation of Watershed Area. If you are in a WS-I area, no construction is permitted. If you are not in a WS-I area, are you in a WS-III Watershed Area?

For WS-III: Are you within the Critical Area? The Critical Area is the area within one-half mile from and draining to the intake, or one-half mile from the intake leading to the water treatment plan.

- If yes, up to 12% of a lot in a WS-III area may be covered with impervious surface (built-upon area). Impervious surface (built-upon area) is the land or property covered by buildings, pavement, gravel, sidewalks, roads and recreation facilities except swimming pools.
- If yes, is it new, non-residential construction?
 - If yes, a special bonus for 10% of the acreage of a watershed outside the Critical Area to be covered with up to 70% of the property with built-upon area (the “10/70 provision”) may be granted by the County Commissioners.
- If yes, are you adding on to an existing structure?
 - If yes, existing businesses may be expanded to cover up to 12% of the lot area not already covered by impervious surfaces. For example, assume you have a lot of 15,000 ft² outside the Critical Area with an existing business and parking lot of 5,000. Subtract the 5,000 ft² of “existing development” from the lot, which leaves 10,000 ft². Multiply 10,000 ft² by 12%, which gives 1,200 ft². Your addition can be 1,200 ft² of impervious surface coverage including but not limited to building, parking area, driveways, etc.
 - If no, you are in the Balance of Watershed, development and impervious surface coverage can not exceed 24%.



Our watersheds provide many benefits to the residents of Haywood County and are worth protecting

GUIDE TO SURFACE FRESHWATER CLASSIFICATIONS IN NORTH CAROLINA

Surface Freshwater Classification	AREA AFFECTED	WASTEWATER DISCHARGES ALLOWED ¹	DEVELOPMENT ACTIVITIES			EROSION & SEDIMENTATION CONTROLS ¹⁹	AGRICULTURE BEST MANAGEMENT PRACTICES MANDATED ¹⁴	FORESTRY BEST MANAGEMENT PRACTICES MANDATED ¹⁴	TRANSPORTATION BEST MANAGEMENT PRACTICES MANDATED	LANDFILLS ALLOWED	DAMS / WATER RESOURCES PROJECTS
			ALLOWABLE DENSITY		STREAM BUFFERS ^{14, 14}						
			LOW DENSITY OPTION ²² (du = dwelling units per acre)	HIGH DENSITY OPTION ²²							
DWQ Primary Classifications											
WATER SUPPLY - I (WS-I)¹	Entire Water Supply Watershed	None Allowed	None - Undeveloped	None - Undeveloped	N.A.	More Stringent Rules Apply	Yes ¹⁷	Yes	Stricter N.C. Div. of Land Resources Erosion Controls Apply 20	None Allowed	No Specific Restrictions
WATER SUPPLY - II (WS-II)¹	1/2 Mile Critical Area ³	General Permits ²	1 du / 2 ac or 6% Built Upon Area	6-24% Built Upon Area	Low Density - 30' High Density - 100'	More Stringent Rules Apply	Yes ¹⁷	Yes	Stricter N.C. Div. of Land Resources Erosion Controls Apply 20	No New Landfills	No Specific Restrictions
	Rest of Watershed	General Permits ²	1 du / 1 ac or 12% Built Upon Area	12-30% Built Upon Area	Low Density - 30' High Density - 100'	More Stringent Rules Apply	Yes	Yes	Stricter N.C. Div. of Land Resources Erosion Controls Apply 20	No New Discharging Landfills ²¹	No Specific Restrictions
WATER SUPPLY - III (WS-III)¹	1/2 Mile Critical Area ³	General Permits ²	1 du / 1 ac or 12% Built Upon Area	12-30% Built Upon Area	Low Density - 30' High Density - 100'	Standard Rules	Yes ¹⁷	Yes	Yes ²⁰	No New Landfills	No Specific Restrictions
	Rest of Watershed	Domestic & Non-Process Industrial	1 du / 1/2 ac or 24% Built Upon Area	24-50% Built Upon Area	Low Density - 30' High Density - 100'	Standard Rules	Yes	Yes	Yes ²⁰	No New Discharging Landfills ²¹	No Specific Restrictions
WATER SUPPLY - IV (WS-IV)¹	1/2 Mile Critical Area ³	Domestic and Industrial ⁶	1 du / 1/2 ac or 24% Built Upon Area ¹⁰	24-50% Built Upon Area ¹⁰	Low Density - 30' High Density - 100'	Standard Rules	Yes ¹⁷	Yes	Yes ²⁰	No New Landfills	No Specific Restrictions
	Protected Area ⁴	Domestic and Industrial	1 du / 1/2 ac or 24% Built Upon Area ¹⁰	24-70% Built Upon Area ^{10, 11}	Low Density - 30' High Density - 100'	Standard Rules	Yes	Yes	Yes ²⁰	No Specific Restrictions	No Specific Restrictions
WATER SUPPLY - V (WS-V)¹	River Segment	Domestic and Industrial	No	Restrictions	None Required	Standard Rules	Yes	Yes	Applied As Practical	No Specific Restrictions	No Specific Restrictions
CLASS B (B)	Receiving Stream	Domestic & Industrial (Reliability Requirements)	No	Restrictions ²²	None ²² Required	Standard Rules	Yes	Yes	No Specific BMPs Required	No Specific Restrictions	No Specific Restrictions
CLASS C (C)	Receiving Stream	Domestic and Industrial	No	Restrictions ²²	None ²² Required	Standard Rules	Yes	Yes	No Specific BMPs Required	No Specific Restrictions	No Specific Restrictions

DWQ Supplemental Classifications											
NUTRIENT SENSITIVE WATERS (NSW)	Entire Watershed or River Basin	Domestic & Industrial (Water Service Required)	Not	Applicable	None ¹⁴ Required ¹⁴ Except for the Purpose of this Area	Standard Rules	Yes ¹⁸	Yes	No Specific BMPs Required	No Specific Restrictions	No Specific Restrictions
DWQ TROUT WATERS (TR)	Receiving Stream and 25' Buffer Area	Domestic & Industrial (Stricter Treatment Standards)	No	Restrictions	25' Veg. Buffer Between Stream & Graded Area ²	Standard Rules Plus Special Buffer Zone	Yes ¹⁸	Yes	Stricter N.C. Div. of Land Resources Erosion Controls Apply	No Specific Restrictions	No Specific Restrictions
HIGH QUALITY WATERS (HQW)	Within 1 Mile from and Draining to Classified Waters	Domestic & Industrial (State Treatment Standards for New Capital Discharge)	1 du / ac or 12% Built Upon Area ¹⁰	No Limit Specified (Matcont/stormwater need from first 1" of rainfall) ¹⁰	Low Density - 30' High Density - N.A.	More Stringent Rules Apply	Yes ¹⁸	Yes	Stricter N.C. Div. of Land Resources Erosion Controls Apply	New Discharging Landfills Possibly Restricted	No Specific Restrictions
OUTSTANDING RESOURCE WATERS (ORW)	Normally Entire Watershed (Drainage Area)	No New Discharges or Expansions	1 du / ac or 12% Built Upon Area ¹⁰	No Limit Specified (Matcont/stormwater need from first 1" of rainfall) ¹⁰	Low Density - 30' High Density - N.A.	More Stringent Rules Apply	Yes ¹⁸	Yes	Stricter N.C. Div. of Land Resources Erosion Controls Apply	No New Discharging Landfills	No Specific Restrictions
SWAMP WATERS (SW)	Receiving Stream	No Specific Restrictions	NO RESTRICTIONS	NO RESTRICTIONS	None Required	Standard Rules	Yes ¹⁸	Yes	No Specific BMPs Required	No Specific Restrictions	No Specific Restrictions

Other Agency Classifications											
FEDERAL WILD & SCENIC RIVERS (U.S. FOREST SERVICE, NATIONAL PARK SERVICE, ETC.)	River Corridor ⁵	No Specific Restrictions	No Specific Restrictions (State encourages local governments to regulate land use but is not mandatory)			Standard Rules	Yes ¹⁸	Yes	No Specific BMPs Required	No Specific Restrictions	May be Restricted / Prohibited
N.C. NATURAL & SCENIC RIVERS (N.C. DIVISION OF PARKS AND RECREATION)	River Corridor ⁶	No Specific Restrictions	No Specific Restrictions (Federal government asks local governments to regulate land use, but is not mandatory)			Standard Rules	Yes ¹⁸	Yes	No Specific BMPs Required	No Specific Restrictions	May be Restricted / Prohibited
DESIGNATED PUBLIC MOUNTAIN TROUT WATERS⁷ (N.C. WILDLIFE RESOURCES COMMISSION)	Designated Waters	No Specific Restrictions	No Specific Restrictions (This classification is for fishery management purposes only)			Standard Rules	Yes ¹⁸	Yes	No Specific BMPs Required	No Specific Restrictions	No Specific Restrictions

NOTES:

- Public water supplies are also subject to protection rules administered by the N.C. Division of Environmental Health, especially DEH designated Class I and II reservoirs.
- In an effort to protect trout streams, the U.S. Army Corps of Engineers' rules for the 25 western counties in the state require certain dredge and fill activities to obtain special Corps approval.
- Critical Area is 1/2 mile and draining to water supplies as measured from the normal pool elevation of reservoirs, or 1/2 mile and draining to a river intake.
- Protected Area is 5 miles and draining to water supplies as measured from the normal pool elevation of reservoirs, or 10 miles upstream of and draining to a river intake. However, in some cases the Protected Area can encompass the entire drainage area.
- Area is 1/4 mile wide from each bank for a "study" river corridor. Legal boundary description with no more than 320 acres per mile average for "designated" rivers.
- The corridor boundaries shall be the visual horizon or such distance from each shoreline as may be necessary, but not less than 20 feet. The state is authorized to carry out protection/management activities within this boundary.
- Where no practical alternative exists, treated discharge from groundwater remediation projects addressing water quality problems will be allowed.
- General permits cover relatively insignificant wastewater discharges such as swimming pool filter backwashes.
- New industrial process wastewater discharges are allowed but will require additional treatment requirements.
- These rules apply only to projects requiring a Sedimentation and Erosion Control Plan.
- 1/3 acre lot or 36 percent built upon surface area is allowed for projects without a curb and gutter street system.
- High Density Option requires control of runoff from the first 1 inch of rainfall through use of engineered stormwater controls. Local governments must assume ultimate responsibility for operation and maintenance of stormwater controls.
- Buffers for low and high density options are applicable to perennial waters and shorelines; however, an unique management strategy with different buffer requirements applies to Randleman Reservoir (15A NCAC 2B 0248-0251).
- Riparian Buffer Protection Rules specifically applied to the surface waters of the Neuse River Basin and Tar-Pamlico River Basin went into effect in August 2000. Fifty foot buffers are required for waters classified as NSW in these two basins and these buffers are measured differently than buffers required by other classifications.
- Erosion and sedimentation controls are those specified under the N.C. Sedimentation Pollution Control Act

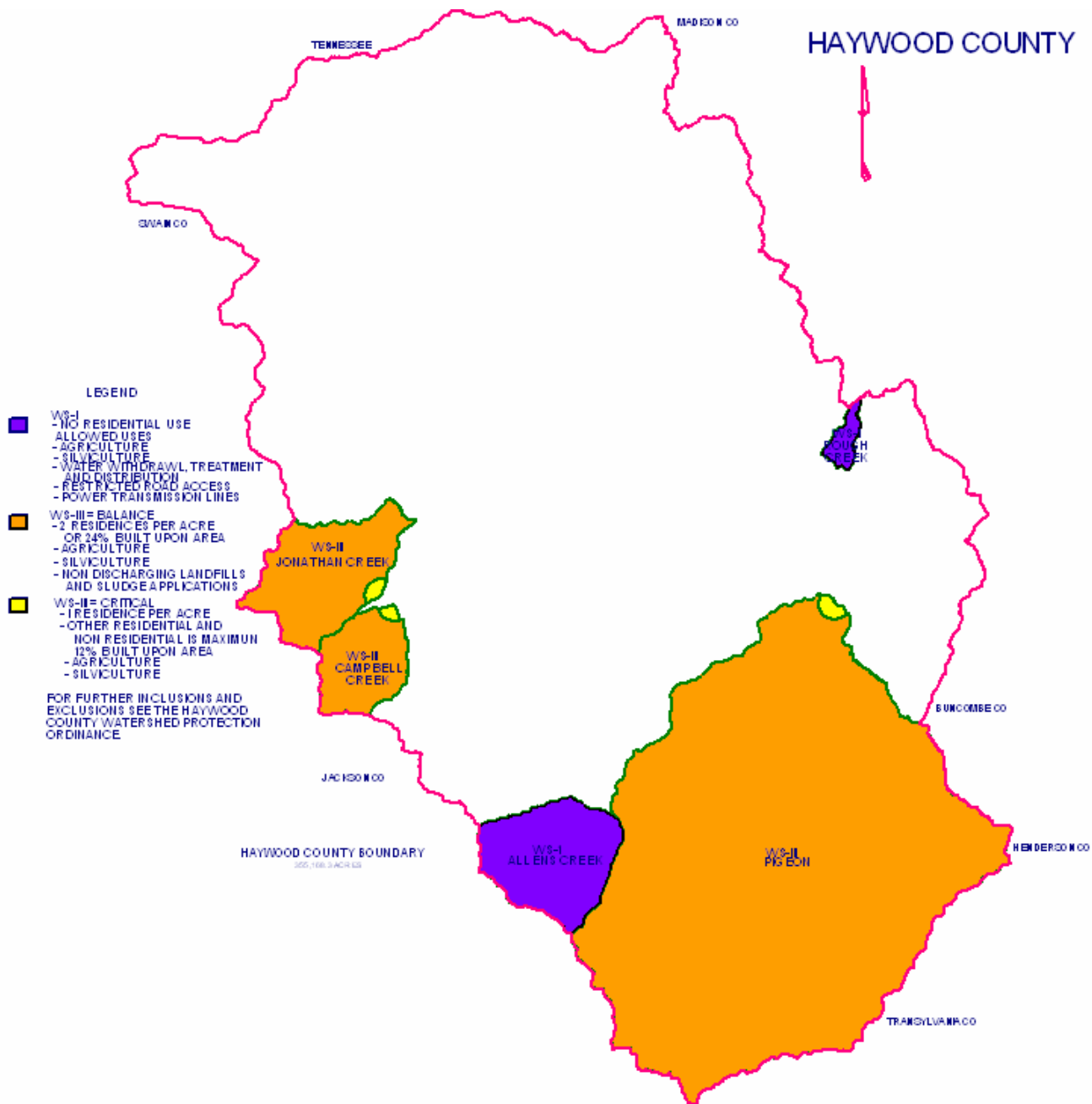
- (administered by the N.C. Division of Land Resources) or local government ordinances.
- All agricultural activities are subject to provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990.
- Agricultural activities must maintain a 10-foot vegetated buffer from perennial surface waters or equivalent control as determined by the Soil and Water Conservation Commission.
- Statewide rules administered by DWQ require certain size animal feedlots to have permit coverage and approved animal waste management plans, as well as to implement buffer zones between newly constructed waste facilities / waste application areas and perennial surface waters. In the Neuse River Basin and Tar-Pamlico River Basin, any agricultural operation is required either to become part of a collective local strategy for implementing BMPs or to implement standard BMPs.
- Silviculture activities are subject to the provisions of the Forest Practices Guidelines related to water quality. Activities on U.S. Forest Service lands are also subject to federal forest management guidelines.
- The Department of Transportation must use BMPs as described in their document, "Best Management Practices For Protection of Surface Waters" (March 1997).
- "Discharging" landfills are those that must obtain a National Pollutant Discharge Elimination System permit from DWQ to discharge treated leachate to surface waters.
- The following stormwater management requirements are applicable to development activities requiring a CMAA major permit or Sedimentation and Erosion Control Plan in the 20 coastal counties:

Minimum Buffer Requirements	Minimum Built upon Area Requirements	Engineered Stormwater Control System
Low Density Option: 30 ft. from surface waters	Low Density Option: 30 percent	<ul style="list-style-type: none"> Infiltration, Detention Ponds and Alternative Systems allowed. Systems must control runoff from 1.0 inch of rainfall. Refer to Stormwater Management rules for specific design information.

NOTE: The information presented in this document is based on the state rules as of January 2001. Water quality classifications and rules are regularly updated and revised. Contact the appropriate agencies for current classifications and rules.

MAIN CONTACTS FOR INFORMATION		
N.C. DIVISION OF WATER QUALITY WATER QUALITY PLANNING 1817 Mail Service Center Raleigh, NC 27699-1817 (919) 733-5963	N.C. DIVISION OF PARKS AND RECREATION 1619 Mail Service Center Raleigh, NC 27699-1619 (919) 733-4181	U.S. ARMY CORPS OF ENGINEERS Wilmington District Office P.O. Box 1890 Wilmington, NC 28402-1890 (910) 251-4811
N.C. DIVISION OF LAND RESOURCES Land Quality Section 1812 Mail Service Center Raleigh, NC 27699-1812 (919) 733-4874	N.C. WILDLIFE RESOURCES COMMISSION Division of Inland Fisheries 1721 Mail Service Center Raleigh, NC 27699-1721 (919) 733-3632	U.S. FOREST SERVICE P.O. Box 2750 Asheville, NC 28802 (828) 287-4200

All waterways in Haywood County have a classification that regulates development in the surrounding area. Visit <http://h2o.enr.state.nc.us/csu/swcfag.html> for more information and a complete reproduction of this table.



Five areas of Haywood County are classified as Public Water Supply Watersheds. Development in these areas must include special precautions to ensure Haywood County residents receive a plentiful and clean water supply at reasonable cost.

10. Will your work be performed within a stream, river, brook, swamp, branch, creek, run, wetland, or any reservoir lake or pond (natural or impounded) or on its banks?

You must have a permit from the US Army Corps of Engineers to impact their jurisdictional area. This includes installing a culvert in any stream. Streams may include intermittent streams and ditches. You are also required to have storm water certification from the NC Division of Water Quality for these issues. Wetlands are sensitive areas that require higher levels of protection, and they are also regulated by the Army Corps, NC Division of Water Quality and the US Environmental Protection Agency Wetlands Division. Wetlands are those areas that support vegetation



Work in streams or along stream banks can be done with the right permit

typically adapted for life in saturated soil conditions (swamps, marshes, bogs, wet meadows). It is important to remember that wetlands do not always contain water.

Land-disturbing activities occurring on, over or under a lake or natural waterway must be performed in a manner to minimize the extent and duration of disturbance to the water channel. *Haywood County Code of Ordinances, Chapter 154: Erosion and Sediment Control*

Section 404 of the Clean Water Act authorizes the Army Corps of Engineers (Corps) to grant permits for certain activities in waterways and wetlands. Construction projects in waterways of North Carolina cannot proceed until a 404 permit has been issued. There are two basic types of 404 permits issued by the Corps, individual and general. An individual permit is usually required for potentially significant impacts. However, for most discharges that will have only minimal adverse effects, the Corps often grants general permits (e.g., minor road crossings, utility line backfill and bedding) in order to expedite the permitting process.



Improper construction techniques, inadequate erosion control measures, or lack of maintenance can lead to sedimentation

Typical projects requiring Section 404 permits include depositing fill, dredged, or excavated material in waterways, stream bank stabilization, moving a stream channel,

grading or mechanized land clearing of wetlands, reshaping existing drainage ditches, placement of spoils from ditch excavation activities in wetlands, soil movement during vegetation clearing in wetlands, site development fill for residential, commercial, or recreational developments, construction or installation of culverts, revetments, groins, breakwaters, beach enhancement, jetties, levees, dams, dikes, and weirs, placement of riprap and road fills, return water from dredge material disposal on the upland and generally any fill material used to construct fast land for site development, roadways, and erosion protection. Some activities are exempt from regulation, such as many ongoing farming, ranching, and silvicultural practices.

As part of the Corps 404 permitting process, you must also acquire a 401 Water Quality Certification from the NC Division of Water Quality. Section 401 of the Clean Water Act gives the Division of Water Quality the authority to prohibit an activity, including a construction project, if it can impact water quality or have other unacceptable environmental consequences. The 401 certification is needed before a 404 permit can be issued, but they are usually conducted cooperatively through use of a joint application form.

To determine what permits you need, contact:

Asheville Regulatory Field Office, US Army Corps of Engineers, 151 Patton Avenue, Room 208, Asheville, NC, 28801-5006, 828-271-7980

and

NC Department of Environment and Natural Resources, Division of Water Quality, Wetlands/401 Water Quality Certification Unit, 1621 Mail Service Center, Raleigh, NC 27699-1621, 919-733-1786. (The Regional Division of Water Quality office in Swannanoa, NC is 828-296-4500.)

Special coordination with the NC Wildlife Resources Commission is required for projects occurring in trout waters. In these cases, the applicant should contact the appropriate Wildlife Resources Commission regional coordinator prior to submittal of the application. Contact the Mountain Region Coordinator, 20830 Great Smoky Mountain Expressway, Waynesville, NC 28786, 828-452-2546.

11. Is your project located within a Special Flood Hazard Area? Special Flood Hazard Areas are identified by the Federal Emergency Management Agency as areas of high hazard with potential loss of life and property. The floodplain is the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. To determine if your property is in a Special Flood Hazard Area or view the Flood Hazard Boundary Map contact the Haywood County Planning Office *Haywood County Code of Ordinances, Chapter 155: Flood Damage Prevention Ordinance*

11a. If yes, will your project occur in the floodway or the fringe (the area bordering the floodway zone)?

Residential and non-residential structures may be constructed in the fringe if elevated one foot above the Base Flood Elevation as determined by FEMA. No fill, new construction, substantial improvements, or other development is allowed in floodways unless a registered professional engineer has certified the construction would not increase flooding levels or frequency. In all cases, a Flood Hazard Development Permit must be obtained from the Haywood County Planning Office and construction must be performed to minimize flood damage. Other flood development guidelines may apply to subdivisions, recreational vehicles, accessory structures, temporary buildings, manufactured homes, utilities, development permits, flood-proofing certifications, inspections and variances, etc. *Haywood County Code of Ordinances, Chapter 155: Flood Damage Prevention Ordinance*

11b. Is your project area near a stream that has no base flood data and a floodway has not been determined?

No fill, new construction, substantial improvements, or new development shall be permitted within a distance from the top of stream bank equal to 20 ft each side unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. When base flood elevation data is not available, the lowest floor shall be elevated at least two feet above the highest adjacent grade. *Haywood County Code of Ordinance, Chapter 155: Flood Damage Prevention Ordinance*

12. Will you be digging a well?

A certified well contractor must be onsite during the construction, abandonment, repair or alteration of any well. All well contractors must have insurance and be individually certified each year with the NC Department of Environment and Natural Resources in order to construct, repair, alter or abandon wells in North Carolina. If you are having a well dug, always ensure that your well is located upslope away from potential contaminant sources. If you have any questions, contact the Department of Environment and Natural Resources, Groundwater Section, 2090 US Highway 70, Swannanoa, NC 28778, 828-296-4500.

13. Will you be constructing a septic system?

You must obtain a septic tank permit from the Haywood County Health Department (828-452-6682).

14. Will you be constructing an on-site package water and/or sewer treatment system?

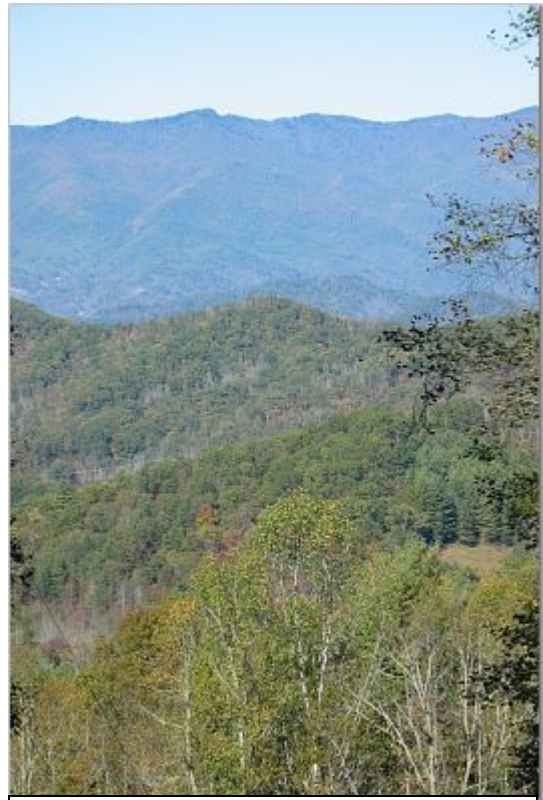
A permit must be obtained from the NC Department of Environment and Natural Resources, Public Water Supply Section and the Division of Water Quality (828-296-4500).

15. Are you constructing, altering, reconstructing or expanding on any building along a ridge that is at least 3,000 ft elevation and whose elevation is 500 or more ft above the elevation of an adjacent valley floor?

You may not construct a building taller than 35 ft. This does not include the foundation, which may be no more than 3 ft high as measured from the highest adjacent grade. This also does not include water towers, radio towers, telephone towers, television towers, chimneys, flag poles, spires, steeples, belfries, cupolas antennas, poles, wires or windmills. You must obtain a permit from the Haywood County Planning Office. *Haywood County Code of Ordinances, Chapter 153: Mountain Ridge Protection Ordinance*

16. Are you creating a slope or disturbing sloped land?

If yes, the slope may not be so steep that it is impossible to prevent erosion by providing a natural groundcover or other adequate erosion control measures. Temporary or permanent groundcover sufficient to restrain erosion or other erosion control devices or structures must be in place within 21 calendar days of completion of any phase of grading. Groundcover may be grass, gravel, mulches, rocks, etc. that hold soil in place. *Haywood County Code of Ordinances, Chapter 154: Erosion and Sediment Control, The Sedimentation Pollution Control Act of 1973 (GS113A Article 4) – for State of NC*



Spectacular views can be observed from Haywood County ridge tops but there are special regulations for developing on them.

17. Will you be grading your land?

The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed must, within 21 calendar days of completion of any phase of grading, be planted or otherwise provided with a temporary or permanent ground cover, device, or structure sufficient to restrain erosion.

If the land is not a graded slope or fill, ground cover sufficient to control erosion must be established with 15 working days or 90 calendar days. If the land is in a High Quality Water Zone, ground cover sufficient to control erosion must be established with 15 working days or 60 calendar days.

Haywood County Code of Ordinances, Chapter 154: Erosion and Sediment Control

18. Will you be using your land for timber harvesting activities?

You must follow the best management practices outlined in the Forest Practice Guidelines Related to Water Quality. Contact the NC Division of Forest Resources for more information or to obtain a copy of the guide: Haywood County Headquarters, 88 Ed Greene Road, Clyde, NC 28721, 828-627-6551. Cutting timber as a precursor to development is not exempt from the erosion and sedimentation control law. This activity requires submission of an erosion and sediment control plan to Haywood County Erosion Control Program (Question 1).



Lack of vegetated slopes or construction on too steep slopes can lead to slope failure

19. Is there potential for your project to impact threatened or endangered species or a federally designated Critical Habitat?

The US Fish and Wildlife Service can prosecute any person who collects or harms a threatened or endangered species for any reason. If the proposed activity affects threatened or endangered species or critical habitat of that species, and the activity involves federal funding, land, or authorization, the US Army Corps of Engineers must consult with the US Fish and Wildlife Service to obtain a biological opinion on the effects to the species. Critical Habitat refers to specific geographic areas that are essential for the conservation of a threatened or endangered species and that may require special management considerations. Under the Endangered Species Act, federal agencies must consult with the US Fish and Wildlife Service before undertaking actions, issuing permits, or providing funding for activities that might destroy or adversely modify Critical Habitat either directly or indirectly. This consultation requirement has no regulatory impact on landowners taking actions on their land that do not involve federal funding or authorization. The Appalachian Elktoe, an endangered freshwater mussel, is known to occur in the West Fork of the Pigeon River and the Pigeon River in Haywood County. To determine if any US Fish and Wildlife Service listed endangered or threatened species, or those proposed to be listed or Critical Habitat, may be present in the area to be affected by your project, contact the US Fish and Wildlife Service, Asheville Field Office, 160 Zillicoa Street, Asheville, North Carolina 28801; 828/258-3939. *Endangered Species Act of 1973, as amended (PL 93-205; 16 U.S.C. 1531 et seq.).*

20. Does your project area contain significant cultural resources?

Cultural resources are natural and man-made and have cultural value to a sociocultural group and may include spiritual places, historic resources, archeological resources, Native American cultural items, historical objects, religious practices, cultural uses of the natural environment, community values, and historical documents. (from T.F. King, 1998. Cultural Resource Laws & Practice: An Introductory Guide, Walnut Creek: Alta Mira Press).

If properties listed on the National Register of Historic Places, or eligible for such listing, are within the project area of a 404 permit or 401 certification area, and will be impacted by the proposed activity, the Army Corps must comply with Section 106 of the National Historic Preservation Act and the applicant may be required to obtain cultural resource surveys. The inventory includes buildings, structures, objects, sites, districts, and archeological resources. Federal actions include, but are not limited to, construction, rehabilitation, and repair projects, demolition, licenses, permits, loans, loan guarantees, grants, and Federal property transfers. For more information, contact the State Historic Preservation Office, Department Of Cultural Resources, 4617 Mail Service Center, Raleigh, NC 27699-4617, 919-733-4763. *The National Historic Preservation Act (NHPA) (16 U.S.C. 470)*

21. What will you be doing with your solid waste generated from construction?

The county has regulations governing what type of solid waste can be deposited in county dumpsters. The following items are prohibited: bulk trash, tree limbs and tree trunks, loose matter not enclosed in bundles or containers, scrap building material, large manmade articles, foul smelling wastes, sewage and human waste. Scrap building material must be taken to the White Oak Landfill. *Haywood County Code of Ordinances, Chapter 50: Solid Waste Disposal*

Land clearing and inert debris (anything that won't rot, rust, corrode or breakdown in a reasonable time) treatment and processing notifications are issued by the Department of Environment and Natural Resources, Division of Waste Management, Solid Waste Section, for facilities that treat or process certain wastes for utilization by recycling, reclaiming, or for final disposal. Activities at a land clearing debris notification site may include: grinding or chipping land clearing debris, yard waste, and new construction wood waste. Specific criteria must be met to be considered a notification site. For more information, contact the Division of Solid Waste, 2090 US Highway 70, Swannanoa, NC 28778, 828-296-4500.

If you plan on burning, you will need to obtain an air quality permit from the NC Department of Environment and Natural Resources, Air Quality Section (2090 US Highway 70, Swannanoa, NC 28778, 828-296-4500). Non-vegetative materials, such as household garbage, lumber, or any other synthetic materials may not be burned. There are additional regulations for time, weather conditions, locations of buildings, and conditions when a permit is not needed. *NC Administrative Code D-1900-2*

22. Is the land you are interested in certified by the county as “farmland” and subject to the Farmland Preservation Ordinance?

If yes, there are restrictions on non-farm development. Contact the Haywood Soil and Water Conservation District for more information. *Haywood County Code of Ordinances, Chapter 156: Farmland Preservation*

23. Is your project located within a National Forest?

Any proposed use of a parcel of land that depends on occupying National Forest land for roads, utilities, or other uses should be approved by the appropriate District Ranger before beginning construction. Such applications are subject to an environmental analysis, and may take a long time to process. Using National Forest land for unauthorized uses is against the law. Please contact the NC Department of Environment and Natural Resources, Division of Forest Resources for more information.

Section II. Other Regulations

The questions below will guide you through other laws, regulations and ordinances that may affect land disturbing, land clearing, development and construction activities, as well as any other associated land use issues.

1. Will you be mining?

Any operator desiring to engage in mining shall make written application to the Department of Environment and Natural Resources, Land Quality Section for a permit. Mining means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter. A mining permit is not required from the state if the affected area does not exceed one acre. Instream sand and gravel mining in North Carolina requires both state and federal permits in accordance with the NC Mining Act of 1971 and Federal Clean Water Act of 1977. Contact the NC Department of Environment and Natural Resources (Division of Land Resources, Land Quality Section or Division of Water Quality, 2090 US Highway 70, Swannanoa, NC 28778, 828-296-4500) and the US Army Corps of Engineers (Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, NC, 28801-5006, 828-271-7980) for information on acquiring a permit. *North Carolina General Statutes, Chapter 74, Article 7, The Mining Act of 1971*

2. Will you be building a dam?

You must obtain a permit from the US Army Corps of Engineers to build a dam in-stream. If you are piping a stream to a hole in the ground greater than one-half acre you must obtain a permit from the Haywood County Erosion Control Program. If the size of the reservoir behind the dam is greater than 10 acre/ft of water then you must register with the NC Department of Environment and Natural Resources, Division of Land Resources, Land Quality Section to determine its hazard potential to residents living below the dam. For more information, contact the US Army Corps of Engineers (Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, NC, 28801-5006, 828-271-7980), Land Quality Section (2090 US Highway 70, Swannanoa, NC 28778, 828-296-4500), or the Haywood Erosion Control Program (Haywood County Annex II, 1233 North Main Street Waynesville, NC 28786, 828-452-6706).

3. Are you interested in an adult entertainment establishment?

An adult establishment license must be obtained from the County. Restrictions are made for location, age limits, inspections, license renewals, signs, hours of operation, and exterior covering. *Haywood County Code of Ordinances, Chapter 116: Adult Entertainment Establishments*

4. Are you constructing a wireless telecommunications facility?

A Special-Use Permit is required from the Board of County Commissioners for any new tower. A Special-Use Permit is required from the Haywood County Planning Office for a facility utilizing an existing structure before construction begins. The applicant must also be licensed by the Federal Communications Commission and carry liability insurance. This ordinance is enforced on private and public lands in the County, except in the jurisdiction of a municipality. Other restrictions are made for certifications, existing structures, maintenance, removal, abandonment, tower height, electromagnetic emissions, setbacks, lighting and signs. *Haywood County Code of Ordinances, Chapter 115: Wireless Telecommunications Facilities*

5. Are you constructing an Off-Premise Advertising Sign?

An off-premise sign is any sign used for the purpose of displaying, advertising, identifying or directing attention to a business, service activity or place, including products or services sold or offered for sale on premise other than on the location where the sign is displayed. Restrictions are placed on size, height,

spacing, setbacks, illumination, and maintenance. These signs require a permit from the Haywood County Planning Office. *Haywood County Code of Ordinances, Chapter 97: Off-Premise Sign Control*

6. Are you building a manufactured home park?

A manufactured home park construction and operating permit is required from the Haywood County Planning Office. Construction requirements include but are not limited to road construction, grades, cul-de-sacs, connections with state road systems, home spaces, setbacks, parking, garbage, maintenance, water supply and variances. *Haywood County Code of Ordinances, Chapter 157: County Manufactured Home Park*

7. Are you creating a junkyard or other facilities related to the storage of junk automobiles?

Any person, business or facility having more than 3 automobiles meeting the definition of junk motor vehicle must have a permit. Automobile graveyards are prohibited in Haywood County. Permits can be applied for at the Haywood County Sheriff's Office. *Haywood County Code of Ordinances, Chapter 114: Junkyards and Other Facilities*

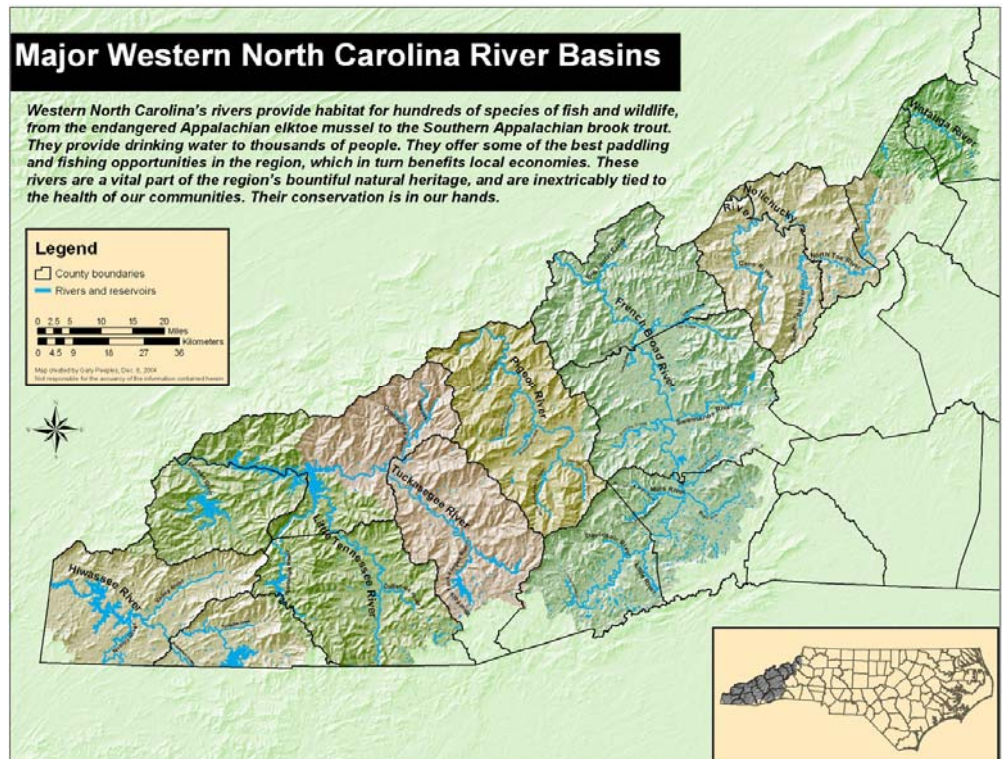
8. Are you building a gas station?

There are restrictions on underground storage tanks. For more information, contact Department of Environment and Natural Resources, Aquifer Protection Section, 2090 US Highway 70, Swannanoa, NC 28778, 828-296-4500.

9. With any construction activity there are noise regulations.

The operation or maintenance of any device, vehicle, or machinery in violation of any provision of this chapter which causes discomfort or annoyance to reasonable persons of normal sensitivity or which endangers the comfort, repose, health, or peace of residents of this county, shall be deemed and is declared to be, a public nuisance, and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. *Haywood County Code of Ordinances, Chapter 95: Noise Control*

The mountains of western North Carolina create unique watersheds worth protecting. Each county has their own regulations dealing with land disturbing, land clearing, development, and construction projects. Please respect the beautiful region we live in by following all applicable regulations.



Section III. Contact Information for Technical and Financial Assistance

Haywood County Health Department, 2177 Asheville Road, Waynesville, NC 28786, 828-452-6675.
<http://www.haywoodnc.net/health.html>

Haywood County Planning Office, Haywood County Annex II, 1233 North Main Street Waynesville, NC 28786, 828-452-6632. <http://www.haywoodnc.net/planning.html>

Haywood County Erosion Control Program, Haywood County Annex II, 1233 North Main Street, Waynesville, NC 28786, 828-452-6706. <http://www.haywoodnc.net/erosion.html>

Haywood Soil and Water Conservation District, 589 Raccoon Road Suite 203, Waynesville, NC 28786, 828 452-2741 x 3. <http://www.haywoodnc.net/soil.html>

NC Department of Environment and Natural Resources, Division of Forest Resources, Haywood County Headquarters, 88 Ed Greene Road, Clyde, NC 28721, 828-627-6551. <http://www.dfr.state.nc.us/>

NC Department of Environment and Natural Resources, Division of Water Quality, 2090 US Highway 70, Swannanoa, NC 28778, 828-296-4500. <http://h2o.enr.state.nc.us/>

NC Department of Environment and Natural Resources, Division of Water Quality, Wetlands/401 Water Quality Certification Unit, 1621 Mail Service Center, Raleigh, NC 27699-1621, 919-733-1786.
<http://h2o.enr.state.nc.us/wetlands.html>

NC Department of Environment and Natural Resources, Aquifer Protection Section, 2090 US Highway 70, Swannanoa, NC 28778, 828-296-4500. <http://h2o.enr.state.nc.us/agw.html>

NC Department of Environment and Natural Resources, Land Quality Section, 2090 US Highway 70, Swannanoa, NC 28778, 828-296-4500. <http://www.dlr.enr.state.nc.us/pages/landqualitysection.html>

NC Department of Transportation, 1500 Mail Service Center, Raleigh NC, 27699, 1-877-DOT-4YOU.
<http://www.ncdot.org/>

NC State Historic Preservation Office, Department Of Cultural Resources, 4617 Mail Service Center, Raleigh, NC 27699-4617, 919-733-4763. <http://www.hpo.dcr.state.nc.us/>

NC Wildlife Resources Commission, Mountain Region Coordinator, 20830 Great Smoky Mountain Expressway, Waynesville, NC 28786, 828-452-2546. <http://www.ncwildlife.org/>

US Army Corps of Engineers, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, NC, 28801-5006, 828-271-7980. <http://www.saw.usace.army.mil/wetlands/where/ashville.htm>

US Fish and Wildlife Service, Asheville Field Office, 160 Zillicoa Street, Asheville, North Carolina 28801, 828-258-3939. <http://nc-es.fws.gov/>

What Regulations Affect Land Disturbing, Land Clearing, Development, and Construction Projects?

QUICK REFERENCE GUIDE

