

AMENDMENTS TO  
ORDINANCE NO. IV:  
THE SUMMERS COUNTY BUILDING ORDINANCE

**ORIGINAL**

**BE IT ENACTED AND ORDAINED BY THE COUNTY COMMISSION OF SUMMERS COUNTY, WEST VIRGINIA, TO PROVIDE THE FOLLOWING AMENDMENTS TO “THE SUMMERS COUNTY BUILDING ORDINANCE” AS FOLLOWS:**

ARTICLE I – GENERAL PROVISIONS, amended by adding the following definitions to Section 1.2 as follows:

“Floodplains” means an area of low, flat land along a stream or river that may flood, an area of land built up by soil left by floods, or an area impacted by water levels during flooding events.

“Financial plan” means a plan which indicates the proposed amount of compensation to the County and private individuals for negative impacts to local water resources.

“Hydrologic features” means features created from the distribution and circulation of water on and below the earth’s surface.

“Hydrological study” means the study of distribution, movement and circulation of water on and below the earth’s surface.

“Impervious surfaces” means surfaces that do not allow water to enter or pass through.

“Industrial construction” means construction projects that are not for residential or agricultural purposes.

“Natural runoff” means water runoff occurring naturally prior to disruption or disturbance by industrial construction activities.

“Pollutant loading” means the measurement of the total amount of a pollutant by concentration as measured by Discharge Monitoring Reports issued by the West Virginia Department of Environmental Protection.

“Topographic features” means features of the land reflecting the shape and elevation of the terrain.

“Turbidity” means the degree to which the water loses its transparency due to the presence of suspended solids in the water.

“Vegetative features” means the plant life in the potentially impacted area.

"Wetlands" means a floodplain forest, a hardwood swamp, a coniferous bog or swamp, an open bog, a shallow marsh, a seasonally flooded basin and any other area defined as a "wetland" by the West Virginia Department of Environmental Protection.

"Zone of critical concern" means the zone around a public surface water supply source and for a public surface water influenced groundwater supply source is a corridor along streams within a watershed that warrants detailed scrutiny due to its proximity to the surface water intake and the intake's susceptibility to potential contaminants within that corridor.

ARTICLE II - BASIC FORMAT, amended by amending Section 2.1, to include the following:

"7. Any other information as may be necessary or required to comply with this ordinance."

ARTICLE II - BASIC FORMAT, amended by adding Section 2.4, as follows:

#### **Section 2.4 - Required Studies**

Be it ordained that no industrial construction in the zone of critical concern on the Greenbrier River, the New River or the Bluestone River, nor any crossing beneath these rivers, or through, nor above their waters shall be permitted to take place before the following studies are completed and submitted for review to the appropriate officials of Summers County:

(1) An industrial construction site impact study shall be performed or reviewed by a registered professional engineer and shall include, at a minimum, the following information:

a. Description of the proposed project including location and extent of impervious surfaces; on-site processes or storage of materials; the anticipated use of the land and buildings; description of the site including topographic, hydrologic, and vegetative features.

b. Characteristics of natural runoff on the site and projected runoff with the proposed project, including its rate and characteristics deemed necessary to make an adequate assessment of water quality.

c. Measures proposed to be employed to reduce the rate of runoff and pollutant loading of runoff from the project area, both during construction and after.

d. Proposed runoff control and reservoir protection measures for the site. These measures shall be designed with the goal of ensuring that the rate of surface water runoff from the site does not exceed pre-development conditions and that the quality of such runoff will not be less than pre-development conditions. Special emphasis shall be placed on the impacts of proposed encroachments into the required buffer.

e. Where the developer of property subject to the terms of this ordinance seeks to utilize existing or planned off-site stormwater quality management facilities, the developer shall provide a written certification that the owner of the off-site facilities will accept the runoff

and be responsible for its adequate treatment to a level acceptable to the Planning Official or his or her designee(s).

(2) A hydrological study of the impact of the proposed Industrial Construction on the water resources of the County shall be performed or reviewed by a registered professional engineer chosen by the County and licensed in the state of West Virginia and shall include, at a minimum, the following information:

a. Impact of the proposed industrial construction on water resources, including private wells, springs, rivers, streams, ponds and wetlands, and sub-surface ground water within 2000 feet of said proposed construction.

b. Quality and quantity data obtained by testing private wells, springs and public water systems within 2000 feet of proposed industrial construction which includes:

1. At least three (3) samples prior to the beginning of proposed construction sufficient to account for seasonal variation in water levels.

2. At least three (3) samples taken throughout the duration of the proposed project's construction.

c. The potential cost of correcting damages to said water resources occurring during construction and maintenance of the industrial construction project.

d. In the event that periodic testing from the hydrological study reveals negative effects attributable to the industrial construction, including increased turbidity, pollutant discharge or stormwater runoff, results can be used by the Planning Official or his or her designee(s) to require the proposing entity to institute such corrections or improvements as are deemed necessary to protect the proximate water resources listed in Section (2) a above.

(3) Such studies shall be submitted to the Planning Official or his or her designee(s) for review and approval concurrent with the submission of applications for review and approval of site or subdivision plans or applications for land disturbing or erosion and sediment control permits. A copy of the impact and hydrological studies shall also be forwarded to those agencies identified as interested parties which are responsible for managing the watershed for review and comments.

(4) No permit for said industrial construction shall be issued under any of the following conditions:

a. Studies reveal a high probability of significant damage to the watershed, its service to public and private sources of water, or to other environmental features such as wildlife, vegetation and general water quality.

b. Design for entry and exit of the river itself, and passage under, through or over the river fails to withstand the effects of a 100-year flood event without significant chance of damage to the watershed;

c. Failure or refusal of the proposing entity to commit to a financial plan to compensate the County for damages to local water resources resulting from industrial construction.

(5) The costs of all such studies shall be borne solely by the proposing entity and the execution of the studies shall be monitored by the Planning Official or his or her designee(s) to ensure the objectivity and independence of the results.

ARTICLE III – ADMINISTRATION amended by adding to Section 3.7, the following fee:

Additional fees as may be required by this Ordinance, as amended.

**Exemption for County Activities**

The provisions of this chapter shall not apply to operations at County facilities or engaged in by County employees or County contractors, or to County residential refuse collection programs if such programs are operated by the County or by an entity under contract with the County.

First reading: January 4, 2016

Second reading: February 10, 2016

Third reading: March 9, 2016

Entered and Adopted this the 9<sup>th</sup> day of March, 2016

  
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Jack David Woodrum, President and Commissioner

  
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Bill Lightner, Commissioner

  
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Tony Williams, Commissioner