

ARTICLE 12 Natural Resources

12.1 Intent

Natural resources provide for the livelihood (through agriculture, silviculture, commercial and recreational hunting and fishing, ecotourism, etc.) and well-being (through drinking water, safe environmental conditions, artistic inspiration, quality of life, and outdoor recreation and enjoyment) of residents and visitors to Pender County. The protection of these resources is paramount to the protection of the well-being and safety of the residents and the financial security for property owners' real investments.

12.2 Resource Conservation Areas

12.2.1 Definition

The following are considered resource conservation areas.

- A. The 1% annual chance floodplain (aka – the 100-year floodplain) including water bodies, such as lakes, ponds, streams, creeks and rivers.
- B. The 0.2% annual chance floodplain (aka – the 500-year floodplain).
- C. Stream and riparian buffer areas (i.e. – any area within 30' of the top of bank of a jurisdictional or perennial or intermittent stream, generally indicated by a solid or dashed blue line on the USGS Quadrangle Maps).
- D. Jurisdictional wetlands under federal law that meet the definition applied by the Army Corps of Engineers.
- E. The 75' Outstanding Water Resource Area buffer zone.

12.2.2 General Requirements

- A. All resource conservation areas shall be unoccupied or predominately unoccupied by buildings or other impervious surfaces to the greatest extent practicable, except as specified in this Article.
- B. Resource conservation areas shall be identified with an added note describing the restrictions of their use.
- C. No land within a resource conservation area shall be counted towards minimum required lot area (per Article 4, Zoning Districts). This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided to meet the minimum lot area requirements.
- D. Resource conservation areas may be counted towards meeting the passive recreation, active recreation, and open space requirements of a district if they meet the criteria described below in Subsection 12.2.3 "Incentives for conservation easement on resource conservation areas", and are owned in common ownership and readily and conveniently accessible to all owners, or otherwise protected and accessible to the public. Developed and maintained

multi-use paths or trails in these areas may be counted toward meeting active open space requirements.

- E. Development should be clustered away from resource conservation areas to the greatest extent possible.

12.2.3 Incentives for conservation easement on resource conservation areas

- A. If all resource conservation areas are permanently placed within a perpetual conservation easement on a separate tract of land, and conform to all other standards of this Article, the remainder of the site may be allowed flexibility in other dimensional standards or density, per Article 7.
- B. Other standards of this Ordinance, such as minimum lot width or frontage standards shall not prevent the platting of a lot that is entirely resource conservation area and subject to a permanent, perpetual conservation easement, so long as some form of access (i.e. – access easement, frontage on a public street, etc.) is provided.
- C. Any conservation easement per the standards above shall include provisions that allow for passive public recreation facilities (trails, greenways, sidewalks, docks, wildlife viewing areas, minimal impact parking areas or visitor facilities, etc.), public utilities easements, and transportation crossings.

12.2.4 Permitted within resource conservation areas.

Resource conservation areas may include the following:

- A. Conservation areas for natural, archeological or historical resources;
- B. Meadows, woodlands, wetlands, wildlife corridors, game or fishing preserves, or similar conservation-oriented areas;
- C. Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts and other regulations adhered to.
- D. Walking or bicycle trails. To the greatest extent practicable, these should be constructed of pervious paving materials.
- E. Docks, walkways, and other accoutrements required for public trust water access.
- F. Easements for drainage, access, and underground utility lines; and
- G. Other conservation-oriented uses compatible with the purposes of this chapter.
- H. Structures that cannot practically be placed outside of the resource conservation area or that are otherwise reliant upon more direct proximity to the water,

12.2.5 Prohibited within resource conservation areas.

Resource conservation areas shall not include the following:

- A. Required stormwater management facilities, as for new development.
- B. Roads, except where necessary crossings are required in accordance with the collector street plan or requirements elsewhere in this Ordinance related to neighborhood connectivity, block lengths, cross-access, or otherwise.
- C. Parking lots, except when pervious and necessary for access to public recreation or public resource areas.
- D. Impervious surfaces, except for greenways (aka multi-use trails), sidewalks, bathroom or picnic shelter facilities, or where otherwise permitted per this Ordinance.
- E. Clearing of land, except that this may be allowed in the 0.2% annual chance floodplain and within the Outstanding Resource Waters 575' boundary, provided that it is maintained in natural, living ground cover, and subject to other requirements of the state and this Ordinance. Limited clearing of land may be allowed for the footprint and access required to construct a single family home, provided that such activity adheres to all other applicable portions of this Ordinance.
- F. Golf courses.
- G. Agricultural and forestry activities not conducted according to accepted best management practices.

12.2.6 Designation, Ownership, and Maintenance

- A. Resource conservation areas shall be shown and designated on all submitted and recorded plans and drawings, such as sketch plan, site development plan, preliminary plat, and final plat, with a note stating their significance and associated restrictions of use.
- B. Ownership and maintenance.
 - 1) Ownership. Resource conservation areas shall be accepted and owned by one of the following entities:
 - a) Land conservancy, land trust, or a state or local government entity. The responsibility for maintenance shall be borne by the owning entity.
 - b) Homeowners or property owners association. A legally binding association representing residents of the residential subdivision or other property owners shall own the resource conservation areas. Membership in the association shall be mandatory and automatic for all property owners and their successors. The association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintenance shall be borne by the association.

- c) Private landowner. A private landowner may retain ownership of the resource conservation areas. The responsibility for maintenance shall be borne by the private landowner.
- 2) Ownership and maintenance obligations and any associated legally required entity (such as land trust or homeowner's association, etc.) shall be maintained in perpetuity or until the land is transferred to another acceptable owner.
- 3) Maintenance.
Maintenance of resource conservation areas is limited to removal of litter, dead tree and plant materials, and exotic or invasive species. Natural water courses are to be maintained as free-flowing as possible and devoid of debris that would unnaturally restrict their function. Stream channels shall be maintained so as not to alter floodplain levels. Maintenance is generally limited to insuring that there exist no hazards, nuisances, or unsafe or unhealthy conditions.