

Topic:	State Land Use Law; Wildlife & Fish Habitat
Resource Type:	Regulations
State:	North Carolina
Jurisdiction Type:	State
Municipality:	N/A
Year (adopted, written, etc.):	2004
Community Type - applicable to:	Urban; Suburban; Rural
Title:	State of North Carolina Wildlife Habitat Protection Ordinance
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Abstract

Cities and counties have some authority over wildlife habitat protection by virtue of their ability to implement watershed improvement projects, which are defined at § 139-3(17) as those involving flood prevention, drainage improvement, water supply, soil and water conservation, recreation facilities, fish and wildlife habitat, or other related purposes. (See Watershed Planning, above.) However, North Carolina gives primary responsibility for protecting wildlife habitat to the state-level Natural Heritage Program under the Nature Preserves Act, found at Article 9A in Chapter 113A. The program designates areas for protection as nature preserves with the advice of the Wildlife Resources Commission and the Department of Agriculture and Consumer Services. Local governments may have some say regarding such designations through their representation on advisory committees that the Program's secretary is required to appoint under § 113A-164.4(6).

Resource

§ 139-3. Definitions

Wherever used or referred to in this Chapter, unless a different meaning clearly appears from the context:

(1) "Agency of this State" includes the government of this State and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of the State.

(2) "A qualified voter" includes any person qualified to vote in elections by the people under the Constitution of this State.

(3) "Environmental Management Commission" or "State Environmental Management Commission" means the Environmental Management Commission of the State of North Carolina, or the board, body or commission succeeding to its principal functions, or in

whom shall be vested by law the powers herein granted to the said Environmental Management Commission.

(4) "Commission" or "Soil and Water Conservation Commission" means the Soil and Water Conservation Commission created by G.S. 143B-294.

(5) "District" or "soil and water conservation district" means a governmental subdivision of this State, and a public body corporate and politic, organized in accordance with the provisions of this Chapter, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(6) "Due notice" means notice given by posting the same at the courthouse door and at three other public places in the county, including those where it may be customary to post notices concerning county or municipal affairs generally, not less than 10 days before the date of the event of which notice is being given. At any hearing held pursuant to such a notice at the time and place designated in such a notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

(7) "Government" or "governmental" includes the government of this State, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

(8) The terms "land occupier" or "occupier of land," and "landowner" or "owner of land" include any person, firm or corporation who shall hold title to or shall have contracted to purchase any lands lying within a soil and water conservation district organized under the provisions of this Chapter.

(9) "Nominating petition" means a petition filed under the provisions of G.S. 139-6 to nominate candidates for the office of supervisor of a soil and water conservation district.

(10) Repealed by Session Laws 1993, c. 391, s. 1.

(11) "Petition" means a petition filed under the provisions of Article 1 of this Chapter for the creation of a soil and water conservation district.

(12) "State" means the State of North Carolina.

(13) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this Chapter.

(14) Repealed by Session Laws 1993, c. 391, s. 1.

(15) "United States" or "agencies of the United States" includes the United States of America, the Soil Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(16) Repealed by Session Laws 1993, c. 391, s. 1.

(17) A "watershed improvement project" means a project of watershed improvement (whether involving flood prevention, drainage improvement, water supply, soil and water conservation, recreation facilities, fish and wildlife habitat, or other related purposes, singly or in combination) which is undertaken:

a. Repealed by Session Laws 1993, c. 391, s. 1.

b. By a soil and water conservation district under the provisions of Article 1 of Chapter 139 of the General Statutes or any local act granting similar powers.

c. By a drainage district under the provisions of Chapter 156 of the General Statutes or any local act granting similar powers.

d. By a county that is carrying out a county watershed improvement program under the provisions of Article 3 of Chapter 139 of the General Statutes or any local act granting similar powers.

e. By any combination of the foregoing, acting as joint sponsors of a watershed improvement program.

f. By any watershed, drainage or flood control project planned or carried out by the Soil Conservation Service, Tennessee Valley Authority or the Army Corps of Engineers.

(18) A "watershed improvement work" means a single feature or facility or portion of a watershed improvement project, such as a water retarding or impoundment structure for one or more authorized watershed purposes or a section of improved stream channel or the land treatment measures associated with a water retarding structure.

§ 113A-164.4. Powers and duties of the Secretary

The Secretary shall:

(1) Establish by rule the criteria for selection, registration, and dedication of natural areas and nature preserves.

(2) Cooperate or contract with any federal, State, or local government agency, private conservation organization, or person in carrying out the purposes of this Article.

(3) Maintain a Natural Heritage Program to provide assistance in the selection and nomination for registration or dedication of natural areas. The Program shall include classification of natural heritage resources, an inventory of their locations, and a data bank for that information. The Program shall cooperate with the Department of Agriculture and Consumer Services in the selection and nomination of areas that contain habitats for endangered and rare plant species, and shall cooperate with the Wildlife Resources

Commission in the selection and nomination of areas that contain habitats for endangered and rare animal species. Information from the natural heritage data bank may be made available to public agencies and private persons for environmental assessment and land management purposes. Use of the inventory data for any purpose inconsistent with the Natural Heritage Program may not be authorized. The Program shall include other functions as may be assigned for registration, dedication, and protection of natural areas and nature preserves.

(4) Prepare a Natural Heritage Plan that shall govern the Natural Heritage Program in the creation of a system of registered and dedicated natural areas.

(5) Publish and disseminate information pertaining to natural areas and nature preserves within the State.

(6) Appoint advisory committees composed of representatives of federal, State, and local governmental agencies, scientific and academic institutions, conservation organizations, and private business, to advise him on the identification, selection, registration, dedication, and protection of natural areas and nature preserves.

(7) Submit to the Governor and the General Assembly a biennial report on or before February 15, 1987, and on or before February 15 of subsequent odd-numbered years describing the activities of the past biennium and plans for the coming biennium, and detailing specific recommendations for action that the Secretary deems necessary for the improvement of the Program.