

Chattahoochee River Water Supply Watershed Protection Ordinance of Suwanee, Georgia

1. Findings and Purpose.

1.1 Findings of Fact. In order to provide for the health, safety and welfare of the public and a healthy economic climate within the City of Suwanee and surrounding communities, it is essential that the quality of public drinking water be assured. The ability of natural systems to filter stormwater runoff can be threatened by unrestricted development. Land-disturbing activities associated with development can increase erosion and sedimentation which threatens the storage capacity of reservoirs. In addition, stormwater runoff, particularly from impervious surfaces, can introduce toxicants, nutrients and sediment into drinking water supplies, making water treatment more complicated and expensive and rendering water resources unusable for recreation. Industrial land uses that involve the manufacture, use, transport and storage of hazardous or toxic waste materials result in the potential risk of contamination of nearby public drinking water supplies.

The City of Suwanee has determined that land inside Suwanee lies within the Chattahoochee River Water Supply Watershed. This watershed is greater than 100 square miles in size and is categorized as a Large Water Supply Watershed under the provisions of this Ordinance. As of the date of adoption of this Ordinance, no portion of the City lies within 7 miles upstream of an active water supply intake or water supply reservoir.

1.2 Purpose. The purpose of this ordinance is to establish measures to protect the quality and quantity of the present and future water supply of the City of Suwanee; to minimize the transport of pollutants and sediment to the water supply; and to maintain the yield of the water supply watershed. This Ordinance shall apply to the portions of the Chattahoochee River Watershed, which occur within the jurisdiction of the City of Suwanee and are herein identified as water supply watersheds.

2. Establishment of a Water Supply Watershed District. The Chattahoochee River Water Supply Watershed District is hereby designated and shall comprise the land that drains to the Chattahoochee River from the river's bank to the ridge line of the watershed within the political boundaries of the City of Suwanee. The boundary shall be set at places readily identifiable on the Watershed District Map.

2.1 Seven Mile Radius Protection Area. A Seven Mile Radius Protection Area is hereby established for land inside the City of Suwanee that lies within the Chattahoochee River Water Supply Watershed and is within a radius of 7 (seven) miles upstream of an active water supply intake. The boundary of the Seven Mile Radius Protection Area shall be set at places readily identifiable on the Watershed District Map.

- 2.2 Secondary Protection Area. A Secondary Protection Area is hereby established for land in the City of Suwanee that lies within the Chattahoochee River Water Supply Watershed but outside of a 7 mile radius upstream of an active water supply intake.
3. Permit Required.
 - 3.1 Permit Requirements. Within the Water Supply Watershed District, no land-disturbing activity, construction or other development, other than certain exempted activities identified within, may be conducted without a approval from the City of Suwanee and must be in full compliance with the terms of this ordinance and other applicable regulations. All activities that are not permissible as of right or as special permit uses shall be prohibited.
 - 3.2 Exemptions. The following land-use activities are exempted from the permit and site plan requirements of this Ordinance:
 - 3.2.1 Agriculture and Forestry. Normal agricultural activities involving planting and harvesting of crops are exempted if they conform to Best Management Practices established by the Georgia Department of Agriculture. Silvicultural activities must conform to Best Management Practices established by the Georgia Forestry Commission.
 - 3.2.2 Mining Activities. All mining activities that are permitted by the Georgia Department of Natural Resources under the Georgia Surface Mining Act, as amended, are exempted.
 - 3.3 Enforcement. The City of Suwanee, its agent, officers and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this ordinance and may take or cause to be made such examinations, surveys or sampling as the City deems necessary.
 - 3.3.1 The Planning and Inspections Department, as amended, is hereby designated as the administrator and enforcement authority for this Ordinance.
 - 3.3.2 The Planning and Inspections Department shall have authority to enforce this Ordinance; issue permits hereunder; and address violations or threatened violations hereof by issuance of violation notices, administrative orders and civil and criminal actions. All costs, fees and expenses in connection with such actions may be recovered as damages of this Ordinance.
 - 3.3.3 Law enforcement officials or other officials having police powers shall have authority to assist the Planning and Inspections Department in enforcement of this Ordinance.
 - 3.3.4 Any person who commits, takes part in or assists in any violation of any provision of this Ordinance shall be fined not more than \$1,000.00 for each offense. Each violation shall be a separate offense and, in the case of a

continuing violation, each day's continuance shall be deemed to be a separate and distinct offense.

3.3.5 The Planning and Inspections Department shall have the authority to issue cease and desist orders in the event of any violation of this Ordinance. Cease and desist orders may be appealed to a court of competent jurisdiction, as identified in Section 9.

3.3.6 When a building or other structure has been constructed in violation of this Ordinance, the violator shall be required to remove the structure.

3.3.7 When removal of vegetative cover, excavation or fill has taken place in violation of this Ordinance, the violator shall be required to restore the affected land to its original contours and to restore vegetation, as far as practicable.

4. Permit Review Applications. Applications for a development permit within the Seven Mile Radius Protection Area shall include:

4.1 Site Plans Required. Except for the exemptions listed in this section, all forms of development within the Watershed District shall be required to have a site plan prepared and approved according to this ordinance before any building permits or other development related permits may be issued or any land-disturbing activity may take place.

4.2 Information Required. Each site plan submitted under this ordinance shall conform to requirements outlined in the City's Zoning Ordinance and Development Regulations and shall include the following.

4.2.1 A site plan drawn to a scale showing all planned improvements including the width, depth and length of all existing and proposed structures, roads, water courses and drainage ways; water, wastewater and stormwater facilities; and utility installations.

4.2.2 Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site.

4.2.3 The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.

4.2.4 Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than five feet.

4.2.5 Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.

- 4.2.6 Calculations of the amount of cut and fill proposed and cross-sectional drawings showing existing and proposed grades in areas of fill or excavation. Elevations, horizontal scale and vertical scale must be shown on cross-sectional drawings.
- 4.3 Activities to comply with site plan. All development activities or site work conducted after approval of the site plan shall conform with the specifications of said site plan. Significant changes to the site plan, that would alter the amount and velocity of storm-water runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill or removal of vegetation during construction or otherwise result in an alteration of the overall appearance of the development as proposed can be amended only with the approval of the City.
- 4.4 Exemptions from Site Plan Requirement. The following activities and developments are exempt from the requirement for detailed site plans:
- 4.4.1 Single family detached homes constructed within a subdivision of fewer than five parcels.
- 4.4.2 Repairs to a facility that is part of a previously approved and permitted development.
- 4.4.3 Construction of minor structures, such as sheds or additions to single family residences.
- 4.5 Pre-Application Conference. A pre-application conference between the applicant and the City can be scheduled at the request of the applicant. The purpose of the meeting is to review local land use restrictions, site plan requirements and the permitting process.
- 4.6 Filing Fee. At the time of the application, the applicant shall pay a filing fee specified by the City. Filing fees up to a maximum of \$500.00 may be required to evaluate the application. This fee may be used to retain expert consultants who will provide services pertaining to functional assessment and mitigation measures as deemed necessary by the City.
- 4.7 Review Procedures. The application shall be made to the Planning and Inspections Department and will be reviewed within the normal review process and times. The review period shall include the preparation of findings (approval or disapproval) by the City.
- 4.8 Appeals. Decisions on permit applications made by the City may be appealed to the Zoning Board of Appeals as outlined in the City of Suwanee Zoning Ordinance.
- 4.9 Duration of Permit Validity.
- 4.9.1 If construction described in the development permit has not commenced within twelve months from the date of issuance, the permit shall expire.

4.9.2 If construction described in the development permit is suspended after work has commenced, the permit shall expire twelve months after the date that work ceased. In cases of permit expiration due to abandonment or suspension of work, the land owner shall be required to restore topography to its original contours and restore vegetation as far as practicable.

5. Protection Measures and Requirements.

5.1 Seven Mile Radius Protection Area. In addition to the limitations on land use prescribed by the Zoning Ordinance or Development Regulations, the following limitations shall apply for land within Seven Mile Radius Protection Area.

5.1.1 The corridors of all perennial streams within a seven mile radius of a reservoir boundary or active water supply intake must be protected by the following criteria:

5.1.1a A 100-foot wide buffer shall be maintained adjacent to each side of all perennial streams;

5.1.1b No impervious surface shall be constructed within a 150 -foot setback area on both sides of a perennial stream as measured from the stream banks

5.1.1c Septic tanks and septic tank drainfields are prohibited in the 150 - foot setback.

5.1.2 New facilities which handle hazardous materials, of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976, excluding underground storage tanks) and in amount (10,000 pounds or more on any one day) shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements or the requirements of the Standard Fire Prevention Code.

5.2 Secondary Protection Areas (outside of the 7 mile radius). In addition to the limitations on land use prescribed by the Zoning Ordinance or Development Regulations, the following limitations shall apply for all land within Secondary Protection Areas.

5.2.1 New facilities which handle hazardous materials, of the types listed in Section 12 of the Resource Conservation and Recovery Act of 1976, excluding underground storage tanks) and in amount (10,000 pounds or more on any one day) shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements or the requirements of the Standard Fire Prevention Code.

6. Nonconforming Uses.

6.1 Previous uses preserved. The lawful use of any building, structure or land use existing at the time of the enactment of this Ordinance may be continued, even though such use does not conform with the provisions of this Ordinance, except that the nonconforming structures of use shall not be:

6.1.1 Changed to another nonconforming use;

6.1.2 Re-established after discontinuance for one year;

6.1.3 Extended except in conformity with this ordinance; or

6.1.4 Structurally altered, except for repairs necessary for the continuation of the existing area.

6.2 Replacement of nonconforming uses. A nonconforming building, structure or improvement which is hereafter damaged or destroyed to an extent exceeding 50 percent of the reasonable estimated replacement cost of the structure, building or improvement, as determined by the City, may not be reconstructed or restored to the same nonconforming use except upon written approval of the City.

6.3 Application to projects partially complete. For any development that has received, before the effective date of this Ordinance, either preliminary plat approval, site plan approval, building permit or other relevant permits provided by the City of Suwanee and for which substantial work has been completed or substantial investment made in reliance upon such a permit, any future work included in said plat or plan may be completed without being subject to the additional regulations imposed in this ordinance. Any significant additions, expansions or phases that deviate significantly from said plat or plan or that have not yet received a permit shall be subject to the provisions of this Ordinance.

7. Variances.

7.1 When issued. The City of Suwanee may authorize, upon appeal in individual cases, variances from the terms of this Ordinance as will not be contrary to the public interest. Variances will only be issued in cases where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Such variance may be granted in individual cases of practical difficulty or unnecessary hardship.

8. Judicial Review.

8.1 Jurisdiction. All final decisions of the City of Suwanee concerning denial, approval or conditional approval of a special permit shall be reviewable in the Gwinnett County Superior Court.

- 8.2 Alternative Actions. Based on these proceedings and the decision of the court, the Planning and Inspections Department may, within the time specified by the court, elect to:
- 8.2.1 Institute negotiated purchase or condemnation proceedings to acquire an easement or fee interest in the applicant's land;
 - 8.2.2 Approve the permit application with lesser restrictions or conditions (i.e., grant a variance); or
 - 8.2.3 Institute other appropriate actions ordered by the court that fall within the jurisdiction of the City of Suwanee.
9. Amendments. These regulations may, from time to time, be amended in accordance with procedures and requirements in the general statutes and as new information becomes available.
10. Separability and Abrogation. All sections and subsections of this Ordinance are considered separate and distinct. Should any section, subsection, paragraph or part of this Ordinance be declared by a court of jurisdiction to be invalid for any reason, it shall not invalidate any other section, subsection, paragraph or part of this Ordinance. All ordinances and regulations in conflict with this ordinance are hereby repealed.
11. Definitions.
- Buffer: A natural or enhanced vegetated area located adjacent to a reservoir or perennial stream within a water supply watershed.
- Corridor: All land within the buffers areas established adjacent to reservoirs or perennial streams within a water supply watershed.
- Hazardous Material/Waste: Any substance defined as "hazardous waste" by the Georgia Department of Natural Resources pursuant to O.C.G.A. 12-8-60 et seq., as amended.
- Impervious surface: A manmade structure or surface that prevents the infiltration of stormwater into the ground below the structure or surface. Example include buildings, roads, driveways, parking lots, decks, swimming pools and patios.
- Perennial stream: A stream that flows throughout the year, as indicated by a solid blue line on United States Geological Survey (USGS) 7-minute topographic series maps (scale 1/24,000).
- Setback: The distance that defines the width of a protective buffer, measured from the boundary of the feature of the landscape (e.g. a wetland or stream bank) that the buffer is designed to protect.
- Water supply watershed: The drainage area (watershed) of lands upstream of a governmentally owned public drinking water intake or water supply reservoir.